◆ How to sink a supercarrier
◆ Charles Peters on the Kennedy hustle

The Washington Monthly

MAY 1987/$3.00

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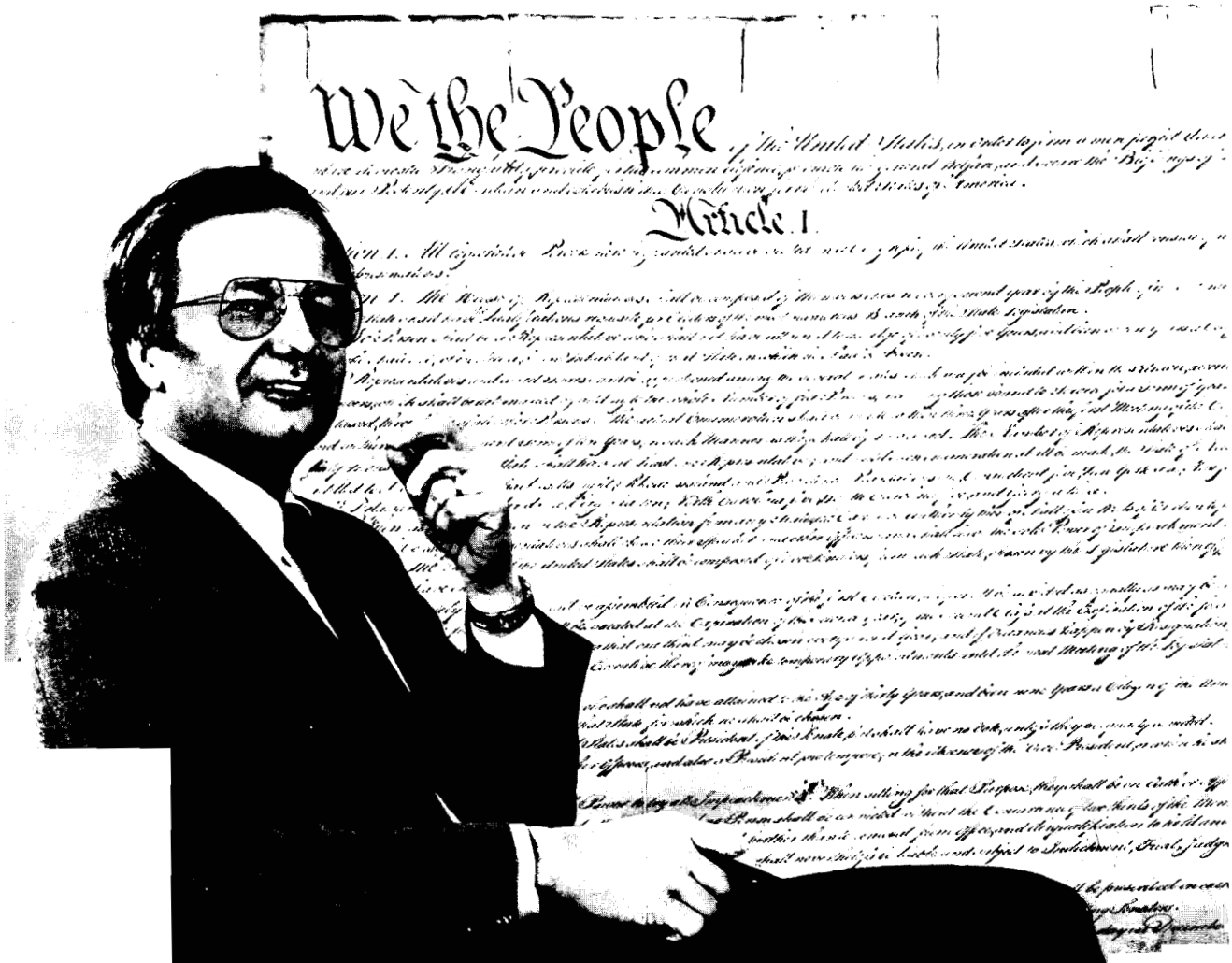

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LETTERS

Filtering the dust

I have just read the article on the M-1 Tank ["The First Chrysler Bail-Out," Richard Mendel, February]. I am terribly disappointed in my apparent inability to provide Mendel with factual data to prevent the errors in his article. As I told him, I was not involved in the political aspects of the decision-making process and therefore did not feel qualified to comment on them. I would, however, question the importance of a bail-out to Chrysler as being a motivating factor. The original decision by the Army, as I understand it, included giving the contract to General Motors with the firm intent to install the turbine engine in the tank. This was the basis for the Chrysler protest.

Let me cite specific errors.

"Army tests showed General Motors had. . . better fire control and turret stabilization." Chrysler turret stabilization was equal to or better than GM's. GM had *potentially* superior fire control in their dual axis sight stabilization. In fact, they were never able to get the system working properly during the competition and Chrysler consistently outshot them.

Bill Kraft is either misquoted or was badly informed about Chrysler's readiness. Chrysler had completed assembling its turret seven months prior to the competition.

Mendel missed a significant point with respect to the diesel engine GM employed. The 1360 Variable Compression Piston engine was never a success. As a result of congressional direction, the Army was forced to waste $10 million to qualify that engine as a backup for the turbine. The project was finally abandoned when the manufacturer, Teledyne, was unable to qualify the engine.

"Unlike diesel engines, all of the air required to run a turbine must be filtered." All of the air to run a diesel engine *must* be filtered. In fact, the turbine is much more forgiving than a diesel in dust ingestion.

"When the M-1 began rolling off the assembly line in 1980 the Army found that the turbine engines were seriously deficient. The air filter system etc." The problem with the engine in 1980 was production quality. The air filtration system problems were completely solved in 1979 during the tests at Fort Bliss, Texas, long before any production was initiated.

LOUIS F. FELDER
Merritt Island, Florida

Mr. Felder served as Chrysler's M-1 project manager.

Richard Mendel replies:

I was sorry to read of Lou Felder's disappointment with my recent article on the M-1 tank. I very much appreciated his generosity in answering my questions and in allowing me to tour the M-1 tank plant

There may be validity—technically speaking—in at least some of the points he raises, but some of his points are misleading.

I am unable to refute the contention that the GM tank did not have better fire control and turret stabilization systems than the Chrysler model. I was left to report the remembrances of expert sources. Memories may lapse over time, while data remains classified. Even if Felder is correct, it does not change the fact that the Army's expert evaluation team judged that GM had the superior tank.

General Kraft was not misquoted. He told me on two occasions that Chrysler's tank prototype was unfinished.

Felder's comments on the GM diesel are misleading. Variable compression diesel engines did have difficulties when first built but improved to the point that the Army was confident of their reliability. The Army was not confident of the reliability of the Chrysler turbine. A recent study—conducted at Ft. Monroe by the Army—found a number of advantages for diesel engines over turbines. And a German-designed diesel is being strongly considered by the Army for its next generation tank.

All of the air required to run a turbine engine—both for combustion and for *cooling*—must be filtered, whereas for diesel engines only the air needed for combustion must be filtered. Serious compromises were required in Chrysler's tank design to accommodate the turbine engine's much larger and more sophisticated filter system.

The air filtration system had two problems—design and quality control. The air filters on Chrysler's initial prototype—while far more bulky, expensive, and sophisticated than the diesel air filter—actually performed well in army tests. During the second round of competition, for which there were no tests, Chrysler abruptly switched to a cheaper, severely flawed, air filtration system. This design problem was remedied in 1979, but some tanks continue to have problems due to poor production quality.

Had the Army been given its way, there would never have been a turbine engine on the M-1. The idea of putting the turbine on the GM tank was a fallback position adopted by the Army in response to powerful—yet unexplained and unjustified—pressure for the turbine from political appointees in Donald Rumsfeld's Pentagon.

The central fact of the M-1 story remains: the M-1 tank we got is not the M-1 tank that army engineers selected.

Striking at boondoggles

Mickey Kaus claims ["Political Booknotes," March] that the original WPA died because of pressure from unions. I suggest he reread his sources. The WPA died because Congress didn't think it a good idea to promote jobs programs in the middle of World War II. Unions loved the original WPA, provided that WPA

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workers were paid wages comparable to those paid union workers. (It was the same mentality as that of the Davis-Bacon Act.)

If Kaus wants to promote a boondoggle (to use a word coined to describe the original WPA), that's his privilege. He shouldn't distort history merely to score debating points.

MARTIN MORSE WOOSTER
Washington, D.C.

Mickey Kaus replies:

Unions obviously weren't the reason the WPA was ended during World War II, and I didn't say they were. My point was that unions were the reason Democrats dropped the WPA idea from the liberal agenda in the decades after World War II. Wooster notes why—the wage scales of public employee and construction unions are threatened by a WPA that pays anything less than union wages, as any sensible modern WPA must (if only to preserve the incentive to look for private jobs). Even in the Depression, this inherent threat left many unions ambivalent about the program. The AFL only really got on board after it struck the WPA in 1935 and forced FDR to pay "prevailing wages" (at great cost to the program's efficiency). In New York, the AFL denounced the WPA when it dared to train unskilled workers who might later compete in the labor market against union members. When Congress got fed up with the "prevailing wage" rule and abolished it in 1939, the unions struck again, but this time Roosevelt broke the strike.

Customary help

Charles Peters mentioned plant safety records in his squib on Consolidated Coal ["Tilting at Windmills," March]. I used to represent a temporary help company. Many of their regular customers were the owners of local plants who farmed out dangerous work like cleaning out oil or chemical storage tanks to these independent contractors. This was done in part because that sort of work is sometimes sporadic, but also because accidents did not blemish the plant's safety records and make their insurance premiums rise. There were accidents aplenty, many of which arose from using unskilled laborers who were in poor physical condition.

C. R. EBERSOLE
Houston, Texas

No surplus food from sacred cows

I was amazed that Charles Peters bought OMB's rationale for cutting the surplus food program in the March "Tilting at Windmills." Their line that civil service pay increases necessitated a cut in food for the poor is certainly predictable, given this administration's constant (and mindless) bitching about the federal bureaucracy.

OMB would have been a lot more honest if they had explained that, given the exorbitant costs of such

The Washington Monthly

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Subscription rates: U.S. and possessions: one year, $33; two years, $58; three years, $79. Foreign subscriptions, additional postage: Canada, $3; other, $25 air mail, $3 surface mail. Back issues, $4. Send correspondence concerning subscriptions, undelivered copies, and changes of address to 1711 Connecticut Ave., N.W., Washington, D.C., 20009. For change of address, please provide six weeks' notice and include old address label. New subscriptions only: 1-800-341-1522.
The Washington Monthly is indexed in the Book Review Index, Political Science Abstracts, Public Affairs Information Service, the Readers' Guide to Periodical Literature, the Social Science Index, and Ulrich's International Periodicals Directory, and may be obtained on microfilm from University Microfilms International, Ann Arbor, Michigan, 48106. Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope.
Published monthly except combined July/August issue by The Washington Monthly Company, 1711 Connecticut Ave. N.W., Washington, D.C. 20009 (202) 462-0128.

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ISSN 0043-0633.
Postmaster: Send form 3579 to The Washington Monthly, 1711 Connecticut Ave. N.W., Washington, D.C. 20009.
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technological wonders as the B-1 bomber and the Bradley Fighting Vehicle (mentioned earlier in the same column), there simply isn't much money to spend on the poor. But of course that's not going to happen, given the sacred cow status that military expenditures have in Washington.

DAVID STEINBERG
Mason, New Hampshire

The mechanics are in charge

Janet Hook's article on medical expenses ["Catastrophic Insurance for All," February] asks, in essence, Who Shall Pay How Much For What Services? As a clinician, I can state that this approach will never solve the problem. Politicians have been trying for years, and we are no closer to a solution because there is still very little understanding of the real problem—that instead of a sensible and affordable health-care system based on prevention, we have a bloated sickness-care system dedicated to high-tech and headlines.

A significant reduction in easily preventable diseases would save so much in terms of lives and money that those who really need medical care could have it fully paid for while overall costs are reduced. But to achieve that, our political leaders must learn that trusting physicians to direct national health policy is precisely like relying on garage mechanics to direct interstate transportation policy.

As a first step in the right direction, I urge journalists to avoid using the misleading phrase "health-care system" and refer instead to our "sickness-care system"—the second biggest industry in the United States, now costing well over a billion dollars a day and still leading all sectors of the economy in inflation—that serves our health needs very poorly.

STEVEN TIGER
Monroe, New York

Kicking bureaucrat kickers

If Charles Peters's greatest windmill gets much larger, I'm afraid he'll need Paul Harvey as his Sancho Panza. He writes ["Tilting at Windmills," February] that "one reason there is such strong resistance to bureaucratic reform is that there are so many bureaucrats...there are now 16,690,000 Americans who work for federal, state, and local government."

Gee, that includes a lot of us who never thought of ourselves as bureaucrats. Silly us. Teachers, librarians, accountants, social workers—we're all guilty of thinking of ourselves in terms of our professional function.

So, if Charles Peters is serious, how about a little consciousness raising? He could get a grant from the Scaife Foundation, say, for a series of public service announcements. Picture this: sobbing young woman on screen; voice: "I always thought of myself as a (muffled gasp) teacher, but then I realized, with the help of *The Washington Monthly*, that I was just a —a *bureaucrat*. (Pulling herself together.) Well, now I know the only decent thing to do. I'm handing in my resignation today, then I'll get a job at Burger King until I've saved enough to open a little boutique. I don't want to be a parasite on the body politic any longer. I want to be...(inspirational music up) an entrepreneur!" (Fade, cut to address card, voiceover) "Kick the bureaucrat habit—write to *The Washington Monthly*...(etc.)"

RON GRIMES
Silver Spring, Maryland

Peters comments (with commendable lack of emotion) on one reason for the strong resistance to bureaucratic reform—that, according to the Census Bureau, "...there are now 16,690,000 Americans who work for federal, state, and local government." Add the military, and the dependents of everyone on the payrolls, and "we must be talking about 40 to 50 million people who have a personal stake in preserving and expanding the functions of government."

Please don't stop there. Add the old folks, and every individual who collects any kind of pension or Social Security payment or medical assistance. Add every worker at every factory that manufactures weapons for the "Defense" Department, and every worker in every industry that supports that huge industry. Add the CPAs who have jobs only because their brethren inside the beltway manage to create incredibly complex tax formulas that in turn create the need for an army of interpreters. The list is endless. We're all addicted. The lawyers in the county seat or state capitol, the construction workers building the new courthouse, the teachers at the state universities and in the public schools, the list goes on and on.

KIRK S. NEVIN
Whitehall, Maryland

Early confirmations

In the March "Who's Who": "Robert M. Gates, the *new* head of the CIA.... (emphasis supplied)? Do I suspect a "Dewey-Truman" or "Wilson-Hughes" cousin?

P.K. SEIDMAN
Memphis, Tennessee

The editors reply:

Our policy in the "Who's Who" section is to report nominations, because they are rarely withdrawn and are almost always confirmed. When one is withdrawn or not confirmed, we are embarrassed of course, but we try to report it in the next issue.

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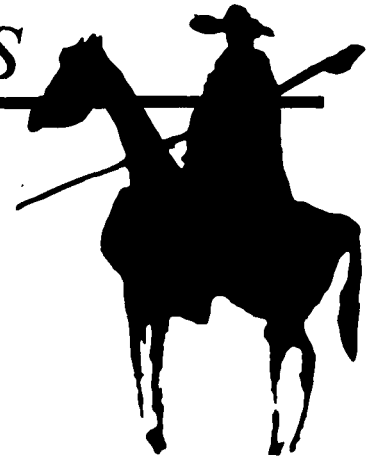
TILTING AT WINDMILLS



The E-6 is a new navy plane that will fly over the ocean to provide a communications link with submarines. Where will the E-6 be based? At some coastal air base? No. In Hawaii or Puerto Rico? No. Give up? The correct answer is Tinker Air Force Base in Oklahoma City.

"Basing those planes in Oklahoma will make sense as soon as we start basing the submarines in Nebraska," one disgruntled navy official told Knight-Ridder's Mark Thompson, to whom I am indebted for this story.

Why Oklahoma? Tinker had not originally been on the list of bases the Navy considered. It was added at the suggestion of Mickey Edwards, a Republican congressman from Oklahoma. On June 25 of last year, Edwards led the fight in the House to restore military aid for the contras. Seven days later, Edwards announced that the Navy had selected Tinker as the base for the E-6....

In order to maintain his limousine lifestyle, the Washington lobbyist must constantly exacerbate the anxieties of the folks back home who foot the bill not only for his chauffeur but for all those lunches at Lion d'Or and the Jockey Club. It is important that they think of the lobbyist as their only protection against daily threats to their pocketbook from Congress and the bureaucracy. Sometimes when the threats aren't too apparent, the lobbyist has to be creative. Take this recent statement from the American Dental Association's Washington office, which, after noting that "Ronald Reagan's calm presidency is being buffeted by the Iran-contra arms scandal," went on to say:

"Such changes in the political scenery at the Capitol will also have an effect on dentists throughout the nation."

Speaking of dentists, they have some of my favorite tax-deductible "continuing education" trips. For example: "17 Deluxe Days" in Japan, China, and Hong Kong feature one sightseeing wonder after another, a "Peking Duck Banquet," and "Geisha entertainment" (dentists are such devils!).

To get their tax deduction, the dentists have to attend four "professional conferences" during the 17-day trip. Each of these is held in the afternoon, presumably to allow the dentists time to recover from the revels of the previous night....

I am worried that the Pollard case will lead to a new wave of anti-Semitism in America. What I hope is that, instead of inciting the rednecks, it will inspire the media to remove the blinders that their sympathy for Israel has caused them to wear for too long. Facts about what's wrong with the Israelis and what's right about the Arabs have been hard to come by. A mere handful of columnists—only Anthony Lewis, Georgie Anne Geyer, Robert Novak, and Alexander Cockburn immediately come to mind—have regularly tried to tell the other side. Some of them—and *Time*

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magazine—may have erred in tilting against Israel, but practically everyone else in the respectable press has tilted the other way.

The prison sentence recently given Professor Saeb Erakat is the kind of story that needs to receive much more attention in the American press. All the professor did was write that Palestinians should "reject and resist" the Israeli occupation. He wrote in an English language newsletter that was sent primarily to foreign journalists in Israel and to people living abroad. There was no evidence that his words were intended to incite violence. The Israelis are going to put him in prison for three years....

TRW has expressed "regret" that it defrauded the Pentagon of as much as $23 million between 1978 and 1984. The sincerity of the company's remorse is suggested by the fact that it gave a $58,000 bonus to the manager of its Cleveland division, where a double set of books had been kept to inflate the cost of jet engine parts....

"Take A Holiday From Your Bill For This Month. No Payment Is Due," read the message on the monthly credit card bill a friend of mine recently received from the Maryland Bank. Had the bank been taken over by some warm-hearted Santa Claus? Not exactly. The next line contained a hint that the bank's purpose was not as charitable as it may have seemed. "Finance Charges Will Continue To Accrue." I glanced down to the lower corner of the statement where I saw the interest being charged. It was 15.9 percent, or more than twice the prime rate....

When Oliver North reported that he had misinformed the House Intelligence Committee about his role in directing covert aid to the contras, John Poindexter said, "Well done." What I fear is that most people will think that such disdain for the truth in testimony before Congress is unique to these two characters. In fact, it is so common in testimony from the executive branch, and most especially from the Pentagon, that it explains why I long ago became an advocate of requiring that all testimony to Congress be under oath. Most people don't know that little of it now is. They also don't realize that, unless he has testified under oath, a lying witness cannot be indicted for perjury....

Should we rehire the air traffic controllers who were fired several years ago when they chose to stay out on an illegal strike after having been warned of the consequences? Both conservatives and moralists want to continue to punish the strikers. Pragmatists want to rehire them because they fear the skies are so overcrowded with planes that tragic crashes are almost certain to happen. The controllers want to come back because they liked the work and they made far more money doing it—isn't it an irony that the main demand of their strike was for higher pay—than they have since been able to make on the outside.

I have a compromise solution. Offer part-time jobs to the fired controllers. The only times the skies are really overcrowded are between 8 and 10 a.m. and between 4 and 6 p.m. Part-time controllers to cover these periods would enable the government to protect the public without wasting money on unneeded full-time employees. The part-time approach would also give the old controllers a chance to get back into action, make some extra money, and still not make suckers out of the controllers who loyally stayed on the job and didn't go out on strike....

I am happy to report that first-year law school enrollment dropped again this year. This makes five straight years that the figure has gone down. Veteran readers of this magazine do not need to be told why this makes me happy. For new subscribers, let me quote a New York career counselor: "Lawyers are the most dissatisfied professional group in the country."

An attorney who left the law and opened a bar in New York City told Alberta Cork of *The National Law Journal*, "If I had a dime for every time a lawyer asked me 'what else can I do with my life,' I'd have enough money to open three restaurants."

And the harm law does to lawyers is minor compared to the harm they do to the rest of us by encouraging adversarial litigation and all

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the animosity and divisiveness it produces.

The bad news is that, while the overall number of law students is declining, the number of females enrolled is still climbing. This is further proof that women's liberation has produced a new form of slavery, slavish imitation of the worst stupidities of the American male.

(Also for new readers: Of course some lawyers do defend the Constitution, free the innocent, help the poor, and in general lead lives dedicated to justice and fair play. Some—not most.)...

Even the most fervent advocate of mercy and forgiveness may wonder about the District of Columbia's guidelines for hiring police officers. They permit the acceptance of candidates who have admitted past use of drugs up to 15 times....

Willie Brown, the speaker of the California Assembly, has long been recognized as a pioneer in bringing to the state level legal shakedown techniques that have long been practiced along the banks of the Potomac. Last year, in addition to receiving his government salary of $37,105 plus a $75 per day tax-free living allowance while he was in the legislature, he got $150,000 from his law firm, a client of which is a subsidiary of Santa Fe-Southern Pacific Corp., whose disinterest in California legislative affairs is, of course, legendary. He also received speaking fees totaling $90,250 from similarly high-minded organizations such as National Medical Enterprises and the California Public Securities Association, and $36,241 in gifts, including a $4,796 trip to London paid for by the Association of California Insurance Companies....

Speaking of which, Mario Biaggi must wonder what subtlety eluded him when he took Legal Shakedown 202. He has been indicted for accepting a free trip from a company after arranging for it to get a federal contract. He could have arranged the contract and then accepted $2,000 from the company for a speech—and received expenses for the trip to the site of the speech—without getting into any trouble at all, much less going to jail. He also would not have had to worry about taking $10,000 in campaign contributions from executives of the company. The speech, the expenses, and the contributions would have all been perfectly legal. You can see how Mario might feel just the slightest twinge of self-pity....

After all the wailing about the recent budget cut at CBS News, I was delighted to see Dan Cordtz's piece in *The New York Times* arguing that there is indeed real waste in television news. He singled out "salaries that are far too high." Anyone who has ever been in a television studio has to be astounded by the number of employees who are standing around with little or nothing to do. These wasteful practices were already well established when I worked in television in the early fifties. I once was faced with choosing between two jobs. In one, on the Lux Video Theater, my responsibilities would be to chalk out the floor plan in the rehearsal hall and make sure the cast was supplied

BOOKSTORES AND NEWSSTANDS

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with coffee and the producer with jello. In the other, I was to hold a stopwatch and time the commercials during the New York Yankee baseball games. That's all.

CBS may have fired the wrong people. And their effort to bust the Writers' Guild, whose members are paid a fraction of the glamorous network correspondents, has bordered on cruelty; at one point they even refused to pay medical benefits for injured strikers. But make no mistake, there is plenty of fat in network news and lots of money that could be saved with no sacrifice of quality....

One of our readers recently sent us a letter he had received from Philip Sheldon of the Restaurant Information Institute:

"Dear Friend: The Restaurant Information Institute (R.I.I.) is looking for frequent diners to evaluate restaurants nationally and regionally throughout the United States. Your present personal dining activities could become an important contribution to a lucrative tax-advantaged business venture.... As a working partner of R.I.I., you will visit restaurants on behalf of the partnership.... A $250 cash capital contribution is required to cover the cost of managing the partnership, including all overhead expenses, rent, telephone, staff, etc.... It is anticipated that your participation will generate a tax loss approximately equal to your restaurant expenses during this period."

In other words, give us $250 and we'll arrange for you to dine out whenever you want at absolutely no cost to you. Uncle Sam will pay the bill....

The announcement of a new White House director of communications—that's the job Pat Buchanan held—might not make the first page on a busy news day. But it is certainly a story of sufficient importance to run in a prominent position inside and to command 15 or 20 column inches of background on the new director and the significance of his appointment. Why, then, did *The Washington Post* devote only 3 column inches to the story and bury it under two other articles on an inside page? The reason is that *The Washington Times* got the story of Thomas Griscom's appointment first, publishing it a day before the *Post*.

The *Post* has a long history of giving only the most grudging acknowledgement to stories that it has been beaten on. The most famous example was the first smoking gun in the Watergate story, the discovery that Nixon had told a group of his top aides to "stonewall" the investigation. Because the *Los Angeles Times* broke the story, the *Post* ran it on page 8. At least that time the *Post* acknowledged that the *Los Angles Times* had broken the story. There was no such acknowledgement

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that *The Washington Times* beat them on the Griscom story.....

If the *Post* deserves the back of our hand for that one, somebody on the op-ed staff over there deserves high praise for printing Diane Ravitch's "Those Banned Textbooks Are Bad Textbooks," in which, while acknowledging the stupidity of Judge W. Brevard Hand's decision in the recent Alabama case, she points out that the textbooks themselves are relentlessly bland and valueless, seeking above all else to avoid controversy:

"The nine history textbooks on Hand's list include some of the most widely adopted books in the nation. In one of them, religion simply disappears from American history after the settling of the colonies; in another, religion disappears in 1850. In a third, there has evidently been an effort to 'mention' religion more often, but only as a passing reference; thus an indexed item called 'religion and the presidency' refers to a description of John F. Kennedy as 'Roman Catholic.' "

Ravitch went on to point out that the five home economics textbooks that were banned did contain an abundance of statements to bolster Hand's claim that the textbooks subverted values parents might be trying to impart to their children:

"For instance, parents who tell their children not to drink alcohol may be startled to discover that their home economics textbook says, 'You need to form your own attitudes toward alcohol. Your attitudes may differ from your friends, but the most important thing is that *you must make your own decision*.' While these words may be intended to support a teenager's decision not to drink, they can just as easily be used to support the opposite decision.

The fallacy of the textbooks' approach is that they teach no right or wrong. As long as the teenager makes his own decision, he can lie, cheat, steal, and swill booze all day....

The insanity of airline deregulation is clearest when one of two airlines that have provided competing service for a city is absorbed by the other. This has happened to St. Louis, with TWA's takeover of Ozark, to Detroit with Republic's merger into Northwest, and now in my hometown, Charleston, West Virginia, with USAir's purchase of Piedmont. In Detroit, service is reported to range from bad to terrible. In St. Louis, the fares are higher. And in Charleston, where Piedmont had 47 percent of the passengers and USAir 26 percent, higher fares are predicted. And they're already high enough. Both Piedmont and USAir have been highly efficient airlines and nowhere has this been more manifest than in their ability to take their customers to the cleaners. By the way, you would have doubled your money if you had bought Piedmont stock when I recommended it last year. I wish I had....

In 1983 the Department of Health and Human Services, the federal government's leading purchaser of medical services, adopted a new reimbursement system under which fixed fees are paid for hospital services. It has increased competition among health care providers and caused the rate of growth in Medicare spending to slow for the first time since the program was created.

The government's number-two purchaser of medical services, the Department of Defense, did not adopt the HHS system. Its health care arm, called Champus, continues to allows physicians and hospitals to calculate their own charges.
The result? Caspar Weinberger recently asked Congress for a $340 million supplemental appropriation to cover medical cost overruns....

I have worried for years about the fact that our government spends billions on computers, while few of its employees, including those who buy and use them, have more than the sketchiest understanding of the machines they're dealing with. The latest evidence that I should worry even more comes from *The Washington Post*'s computer expert, T.R. Reid, who points out that the NSC staff was furiously shredding memos last fall, not realizing that they had left their computer chock full of incriminating evidence. Future bureaucratic criminals who think they have destroyed the evidence by pressing the "erase" or "delete" button should know that, in the case of some computers, until a new file is written on the disk, the deleted message remains, just waiting to be discovered by congressional investigators....

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As a warm admirer of Corazon Aquino, I couldn't understand why anyone but the fascist Marcos clique could dislike her. I understood a little better when I recently learned from Gregg Jones of *The Washington Post* that even though her husband, Benigno, had urged in 1965 that it be broken up and given to the peasants, her family still owns a 15,000 acre plantation, complete with its own airstrip, 18-hole golf course, and uniformed guards....

In his new book, *Visions and Nightmares*, excerpted in the March issue of *Harper's*, Robert Lekachman writes: "Neoliberals argue that well-paid professional and managerial workers should be allowed to opt out of social security."

The word neoliberal was coined by *The Washington Monthly* to describe its political philosophy. The term has subsequently been applied to many others, including professional middle-of-the-roaders and those who believe high technology is the key to America's economic future. To the best of my knowledge, not one of us believes in letting the well-paid out of social security.

The only position this magazine has ever taken on social security is that the rich should not receive its benefits, not that they should not pay for it. We have repeatedly argued that social security should be viewed as insurance against need: everyone should pay for it, but only those who need it should get it. And those who need it should get more than they are receiving now. In that respect we are more liberal than the conventional liberals like Lekachman. Maybe that's what he can't stand to admit....

Beware of young dentists. I know you're saying, now he's really lost his marbles—I must admit that I seem to have some kind of fixation on the dental profession this month—but let me explain my warning. Young dentists emerge from school with very substantial student loans that they must pay off. They immediately double their debt by setting up their own office and buying all the latest equipment. So now they have to make a lot of money fast. Where are they going to get it? From you, the patient—by persuading you that your teeth are in imminent danger of falling out unless you immediately undergo some kind of complicated dental procedure about which only one thing is certain: it will cost you thousands of dollars....

As further evidence that upward mobility has become the religion of modern America, I offer an eight-year-old student at a local private school who was asked to list the key events of the life he looked forward to. They were Harvard, marriage, and a Porsche. We can derive some comfort at least from the fact that marriage made the list....

—*Charles Peters*

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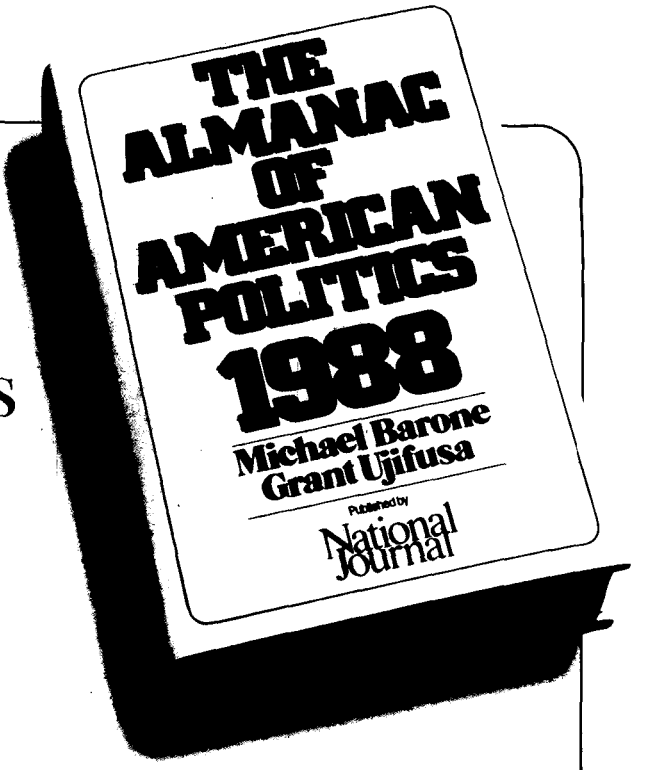

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A bedtime story for John Lehman

THE SINKING OF A SUPERCARRIER

by Joseph Enright and James Ryan

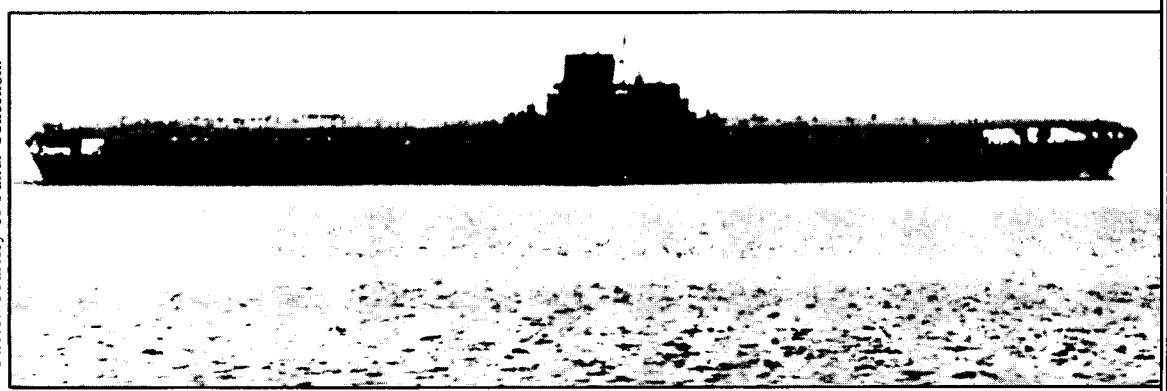

Photo: Courtesy of Fukui Collection.

Before departing as secretary of the Navy, John F. Lehman Jr. asked Congress for money to build two new aircraft carriers. To critics who say carriers are too vulnerable to air and sea attacks to justify the expense—the new carriers will cost $7 billion, not to mention the risk of life—Lehman responds that the Russians have just built a supercarrier of 75,000 tons, and "We don't know how to sink that carrier."

Lehman, it seems, has forgotten his naval history. On November 29, 1944, a lone attack submarine, the U.S.S. Archer-Fish, *sank the 72,000 ton Japanese supercarrier* Shinano, *killing more than half the 2,515 crew members. The carrier, built in secrecy, had left Tokyo Bay on her maiden voyage the previous afternoon. On patrol in the region, the* Archer-Fish *spotted the carrier and stalked it for hours. In the following account, Commander Joseph Enright, skipper of the* Archer-Fish, *tells what happened next.*

On November 29, 1944, the Imperial Japanese aircraft carrier *Shinano* was steaming along eight hours into her maiden voyage. Off *Shinano*'s bow, the destroyer *Isokaze* raced about erratically. The destroyers *Yukikaze* and *Hamakaze* duplicated *Isokaze*'s unpredictable movements off both beams of the carrier. Overhead the moon was beginning to drop but visibility remained excellent. Optimism was mounting that *Shinano* would pass safely through the Pacific waters believed to be swarming with Yankee submarines.

Captain Toshio Abe stood, as if transfixed, at the front of *Shinano*'s bridge. Behind him staff officers and crewmen went about their tasks quietly and efficiently. An hour earlier, Captain Mikami had gone below to convey the captain's compliments to the ship's officers and men at the celebratory *sirouka* meal.

Periodically, Abe went back to look at the bridge chart to study the chart and *Shinano*'s plot. He was concerned about the enemy submarine that had been detected 48 hours earlier. He thought about her almost obsessively. Submarines seldom remained stationary, and in those two days she could have moved in any direction, and for a considerable distance. It could be anywhere. *Shinano* would be passing only 25 miles south of the site of the report, well within the range of a patrolling sub. If he could con-

Adapted from Shinano! *by Joseph Enright and James Ryan,* St. Martin's Press, New York. © *1987 Joseph Enright and James Ryan. Reprinted with permission.*

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stantly detect the radar signals, it meant the American boat was running surfaced and posed no real threat. His lookouts would spot it long before it came within torpedo range. If the signals could no longer be detected, it would have dived, with the assumed intention of attacking the carrier.

Captain Abe, however, believed *Shinano* could withstand the damage caused by the enemy's torpedoes—which, he knew, were substantially inferior to the Empire's. The man hours and millions of yen spent on *Shinano*'s construction made it nearly inconceivable that a few torpedo hits would put her out of action.

Torpedoes fired

I was the captain of that submarine, the *Archer-Fish*. The Japanese carrier was moving directly towards us.

I whirled around to Lieutenant Andrews. "Okay, John, let's take her down!"

Instantly the Lieutenant Andrews bellowed, "Lookout below! Dive! Dive!" He sounded the diving alarm simultaneously. It resounded throughout *Archer-Fish*: Ah-oooooh-gah! Ah-oooooh-gah!

In the control room below the conning tower, the chief on watch was already opening the vents to the ballast tanks. The seawater could be heard rushing into the tanks. The air it forced out whined through the topside vents like so many tornadoes. *Archer-Fish*'s down angle increased to 10 degrees as we started to slide beneath the Pacific.

I followed the lookouts down the ladder but stopped at the conning tower, positioning myself between the pair of periscopes. The other men continued below to the control room and their various battle stations.

I pressed my head against the rubber cushion around the glass before the scope was fully raised and glared into the eyepiece. The cross wires were fixed right on our target. Just keep coming, sweetheart, I murmured to myself. Don't turn away.

There were about ten of us crowded into the conning tower.

"Stand by for a setup," I ordered. "Range, mark!"

Quartermaster Sykes called out, "Seven thousand yards."

"Bearing, mark!"

"Bearing three three zero."

The huge carrier was approaching at about 600 yards every minute. *Archer-Fish* was lined up. Unless the target zigged, the next move was ours. Ours was a typical approach, one that many of us had rehearsed hundreds of times on training runs. The principle for firing torpedoes is almost the same as for firing a rifle: "Settle down; steady; squeeze the trigger gently!" Do otherwise and the bull's-eye is missed.

As the range closed rapidly we prepared our torpedoes for firing.

"Make ready all tubes," I ordered. "Flood the tubes. Set depth on the torpedoes at 10 feet."

Rear Admiral Freeland A. Daubin had once told me that if he ever had an opportunity to torpedo an aircraft carrier, he would set his torpedoes to run shallow. He figured that given the great weight of the flight deck well above the waterline, any additional weight high in the carrier—in the form of flooding—would tend to capsize her, perhaps even more effectively than a greater amount of flooding lower in the hull.

Bill Sykes raised the scope for me for quick looks at the target. Up and down it went, silently within its smooth casing. Even though it was still dark on the surface, I didn't want the periscope breaking the surface any more than was necessary.

I peered through the scope and saw an unexpected maneuver by the screening destroyer on the carrier's starboard beam. He was changing course and heading straight for our piece of the ocean.

We did not appear to have been detected by the destroyer. All of us could now hear the sharp sounds of the destroyer's propellers as she headed our way. When we dropped to a keel depth of 62 feet, we would have about 10 feet between *Archer-Fish*'s upper periscope support and the destroyer's keel. Inside the conning tower not a word was spoken. We just looked at each other and listened.

Then the destroyer was roiling the water right above us. The beat of the big propellers so close was breathtaking. The whole submarine vibrated and rolled from the shock waves. Would she drop the ash-cans? We squinted and listened. No depth charges. Then she was past us, the sound of her propellers diminishing rapidly.

I quickly motioned "up" with a jerk of my thumb, and Sykes raised the scope. The carrier was there, clearly visible. I put the cross wires on the carrier's island and called: "Mark, bearing."

"Stand by," I ordered. "Fire one."

Chief Carnahan pushed the firing button. *Archer-Fish* jerked as if she had been smacked by a whale, as the huge compressed air blast ejected the first torpedo from its tube. It

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swooshed away in a cloud of bubbles at a depth of ten feet, with a 28-degree right gyro angle steering it on course. Now I had time to stare at the target and take in all the details. God, she was big! She filled the scope.

Chief Carnahan, almost like an automaton, turned the selective switch to the No. 2 tube and waited for the eight-second interval, then fired the second torpedo. *Archer-Fish* lurched again. Then the third and fourth torpedoes were fired. I kept watching the nearby carrier through the scope. Things were getting tense. Where were the hits? Then we all felt the unmistakable jolt of our fifth torpedo swooshing away.

They say one's heart leaps into one's mouth, and that is exactly what I felt. In the glass I saw a huge fireball erupt near the stern of the target. Then we heard the noise of the first hit, carried to us through the water. Then *Archer-Fish* felt the shock waves created by the 680 pounds of torpex explosive.

"Got 'em!" I yelled. "Got the son-of-a-bitch!"

I saw the second explosion rip the target's hull eight seconds later, about 50 yards forward of the first blast.

I swung the periscope to watch the reaction of the destroyers. One was already headed for us from the carrier's starboard quarter. The one that had gone pounding overhead only a minute before was completing a tight turn to head back toward us. I got one more fast look at the carrier as we felt and heard further torpedoes rip into her hull. Incredibly, she was listing already. She looked as though she would capsize any minute. I heard more torpedoes strike the target.

"Take her down to 400 feet," I ordered. "Rig for depth-charge attack."

Gaping holes

It was at 3:15 a.m. when the first torpedo smashed into *Shinano*'s hull some ten feet below the surface. There was a tremendous roar, and a huge ball of red and orange flame rolled up the starboard side of the ship and shot into the dark sky. The torpedo ripped into large refrigerated areas and one of the empty aviation gasoline-storage tanks. The explosion burst through the deck above, killing engineering personnel who were asleep in their compartments.

The number two torpedo thudded into the stuffing box compartment for the starboard outboard propeller shaft. The sea rushed in and flooded the outboard engine room. The engine-room personnel managed to escape. The third torpedo flooded the No. 3 fireroom within minutes. Every man on watch was killed. The last torpedo detonated against the side of the starboard air compressor room, flooding it and the neighboring magazines. The explosion also ruptured the starboard-ready oil tank. From the dreaded sound of the first explosion, Captain Abe recognized that *Shinano* was under submarine attack. Well, let the enemy do his worst; he was firm in his belief that *Shinano* could sustain this kind of damage.

> Captain Abe spoke through the speaker tube: "Keep up your spirits, men. Our people are cutting their way into your area from above."

"Enemy torpedoes, gentlemen. Sound battle stations—all hands. Quickly. Damage-control status reports. Immediately. Casualties. Get to it." Abe seethed inwardly. He wondered whether he should break radio silence to notify headquarters of the attack.

"Navigator Nakamura, order the helmsman to maintain our top speed. We must proceed with every knot the engine rooms can provide."

Lieutenant Sawamoto interjected almost immediately: "Captain Abe, the ship is listing. Nine. . .now ten degrees to starboard."

Abe glanced through the window fronting the bridge. *Shinano* was heeling, far too quickly. Could four torpedo hits cause such a situation? A ship this huge, with so many inches of armor—something was wrong. Weren't the anti-torpedo blisters along the hull effective?

Captain Abe's mind was in turmoil as he thought about the fate of the carrier *Akagi*, which had been deprived of its electric steering by the Yankee bombs at Midway, resulting in a jammed rudder. *Akagi* had turned in huge circles to port until Japanese ships were forced to scuttle the carrier with torpedoes.

Captain Mikami rushed toward the damaged areas. Only moments earlier he had been knocked out of his bunk. The whistling sounds of escaping air were everywhere as he passed closed watertight doors. Gaskets were leaking. The same ominous high-pitched noise came from pipes, ventilation ducts, and electric cables that passed through bulkheads. Mikami recognized that the air being vented was caused by the pressure of seawater entering the ship. He surveyed the mutilated decks above and below him. Storerooms, refrigerated spaces, and sleeping

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quarters had been blown apart. Reports of many dead and wounded were being called out to teams of medical corpsmen who were making their way to the crew's sleeping compartments.

Mikami reached the No. 1 damage-control station and instructed all personnel to proceed to their stations and secure all watertight doors. As he gave the orders, he was filled with resentment toward headquarters and the builders of *Shinano*. If we had been permitted time to air test the compartments, we would be able to control this flooding now, he thought. Within minutes he received reports of four large gaping holes in the hull. When one of the reports told him that the flooding was close to the starboard pumping station deep in the ship, he again felt a chill for the safety of everyone aboard. If we lose the pumps, he thought, it will be impossible to keep the ship righted.

Shinano's list to starboard had increased to 13 degrees, making it difficult to walk along the decks. Mikami made his way to the first generating room next to a flooded compartment. Seawater, reeking of bunker crude oil, swirled above his knees. The generator was out of commission. When the auxiliary generator kicked on, the dim light revealed that the water in the generator rooms was rising to waist height.

Mikami returned to the No. 1 damage-control station, where he received a new order from Captain Abe: "We're going to try to make Shiono Point. Do everything possible to right the ship."

Mikami then called Lieutenant Inada. "Lieutenant, we must do more to correct the list. It has now increased to 13 degrees. Can't you do more?"

"We are pumping from starboard as fast as we can. Some of the valves are not working properly now. We have already shifted 3,000 tons of water into the port bilges. That hasn't helped."

Mikami realized that *Shinano* probably would not make port.

Prayers and pumps

Ensign Shoda, the carrier's chief quartermaster, had been enjoying a peaceful nap when a torpedo exploded close enough to knock him out of his bunk. He dashed out of his tight quarters and headed for his battle station at the emergency steering station, choking on the heavy brown smoke and the odor of cordite explosive. He staggered through the dimly visible, suddenly unfamiliar passageways. As he covered the length of one corridor, he noticed that a section of the bulkhead had been peeled back. Ensign Shoda could peer into what had been one of the seamen's quarters. The bodies of many of the sailors, killed in their sleep by a torpedo blast, floated eerily on the surface of the ocean rushing in from a gaping hole in the hull. The ensign climbed to the flight deck, which was covered with crew members and panic-stricken civilian workers. Just below the flight deck there was a large hole where antiaircraft guns had once stood.

Seaman Kobari ran to his station in the No. 12 boiler room when the torpedoes struck. The room was already ablaze when he arrived. The asbestos flooring, supposedly unable to burn, was in flames.

Kobari heard Captain Abe announce over the loudspeaker system that *Shinano* would not sink. "We brought in timbers to strengthen the closed hatch of the lower compartment, which was flooding. Although Mr. Sato had also guaranteed that the ship was impregnable, I shivered when I saw the main steam pipe under water. I knew then that the ship was doomed."

In the pumping station far below, Lieutenant Inada and eight enlisted personnel had struggled in vain to pump water from the ship. Now they were trapped in the rising water. Their only escape door had been jammed shut by water pressure. Several of the men began to thrash about in the water and to scream out in terror. The officer's efforts to calm them were useless.

Captain Mikami informed the lieutenant over the voice tube that a rescue team was on its way. The members would try to burn their way into the enclosed compartment with acetylene torches.

As the water rose higher, forcing the trapped men to tread water or clutch for a hold overhead, Captain Abe spoke to Lieutenant Inada through the speaker tube: "Keep up your spirits, men. Our people are cutting their way into your area from above."

Lieutenant Inada replied, "Thank you very much, sir, but I'm already prepared to die. We're in total darkness down here, and the water is rising all the time. But we'll keep trying to fix that valve as long as we can."

The rescue team worked feverishly to cut through the steel plate to Lieutenant Inada's party, but as the ship continued listing and the water level rose the team had to withdraw. Lieutenant Inada called the bridge. Ensign Yasuda was standing by.

"This is Lieutenant Inada in the pumping station. The water is now almost at the top of our compartment. We'll soon be unable to communicate with you."

Lieutenant Inada then shouted his last words

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into the speaker tube: "I'm going before you, and I will pray for *Shinano* and her company."

Ensign Yasuda relayed the gallant officer's final words and sentiments to Captain Abe, who shook his head sadly. "Lieutenant Inada's courage and that of his men are in the finest tradition of the Imperial Navy. They will all be remembered for generations."

Desperate graffiti

The cries of the wounded and terrified civilian and Korean workers echoed throughout the ship. The muffled screams of men trapped by rising water could also be heard.

Shinano was still making almost 18 knots. Yet the sea poured into her broken hull. Elements of the carrier's huge power plant were still operating, but engineering and machinery officers expressed doubts about how much longer the engine and firerooms could function.

Counterflooding had reduced the list to seven degrees, but there was little time to be optimistic. The starboard engine room became hopelessly flooded and *Shinano*'s list increased again, to 20 degrees. Then came the report that the trimming tanks on the port side could no longer be used to correct the list because their flood valves were now above the waterline. *Shinano*'s speed dropped below 10 knots.

Many compartments had flooded due to leaks in the bulkheads and around doors. Because of the urgent order for *Shinano* to depart Yokosuka Naval Shipyard, there had been no time to detect and repair them. Bucket brigades were formed to control the flooding, but the water swirled around the men and continued to rise. It was like bailing out a small boat under a waterfall. The buckets were left to sink in the flood waters, and the men began to clamber topside on ladders throughout the ship.

Captain Abe ordered the men on watch in the firerooms and engine rooms to leave their posts and proceed to higher decks. Captain Kono was then ordered to flood the three outboard port boiler rooms in a desperate effort to reduce the ship's list. Abe realized that this action was his last resort if *Shinano* was to be kept from capsizing.

The crew turned the series of valves on seawater lines through the bottom of the hull, which allowed the sea to enter the port boiler rooms on the higher side of the ship. As the tons of water filled the spaces, the carrier began to right herself. All too soon, however, she again started to heel to starboard under the weight of the water.

Sometime after 8:00 a.m. Captain Abe sent a semaphore message to *Hamakaze* and *Isokaze* requesting that they approach to take on tow lines. Ensign Shoda shook his head in disbelief as he watched the two destroyers approach and assume stations off the bow of *Shinano*. With a combined displacement of some 5,000 tons how could they hope to tow a 72,000-ton carrier flooded with thousands of tons of water?

A pair of two-inch-thick steel cables were relayed to both escorts. Then the destroyers attempted to put on headway. *Shinano* failed to move. Her weight was too much for the small ships. Shortly, the cables parted. Again they were taken aboard the destroyers, but this time they were secured around heavy gun mounts. When the tow was ready for a second try, it was obvious to all that the cables would undoubtedly snap again, injuring many sailors aboard the ships. In addition, *Shinano*'s list was becoming so severe that it appeared she could plunge below at any moment. Captain Abe ordered the cables released.

By 9:00 a.m. *Shinano* had lost all power. Soon she was dead in the water, without electricity or steam pressure—little more than a hulk. The escorting destroyers circled around her. *Shinano* now had a list of more than 20 degrees. On the flight deck 1,000 or more men milled around, most of them clutching any object that would help them to maintain their balance on the sloping deck. It was then that panic took hold of some members of *Shinano*'s crew. The less experienced men began to jump over the sides. Some drowned, but most were able to stay afloat until rescued.

Seaman Sua was attempting to steady himself on the flight deck when Commander Araki ordered him to go below to retrieve several important files. Seaman Sua recorded in his diary:

> I went below, struggling because of the terrible list. After I had obtained the stupid files, I noticed graffiti written on the bulkhead. Some of the sayings were patriotic and wished long life to the Emperor and the Imperial Navy. But right next to them were several drawings of our officers with such descriptions scrawled alongside as: "You stupid bastard!"
>
> I supposed one of the officers must have harassed the artist unmercifully, but even so, it seemed rather humorous that some sailor had taken the time while *Shinano* was sinking and listing to vent his feelings

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before hurrying topside. What a tough sort he must have been to linger down there to express humor no one would ever see.

The ship's list had increased to 30 degrees. The carrier was fatally stricken. It was time for Captain Abe to give the able-bodied men permission to leave the ship.

"Captain Mikami," he said, "it truly saddens me, but it's time now for the officers and men to leave the ship. To save themselves. Have the order passed to the men as quickly as possible. I want them to have the best possible chance to save themselves."

Scores of men were ordered to pass among the throng jamming the tilted deck and relay the captain's command: "You are all released from duty. Save yourselves." Almost immediately, great numbers of the crew began to jump into the sea to join hundreds of others who had done so earlier. Any object that would float was tossed into the sea by the veterans to aid the men in the water or those who fell into it while attempting to board one of the destroyers. There were no lifeboats or rafts for this rescue work.

Radioman Petty Officer Yamagishi was tossed into the sea when *Shinano* suddenly increased her list. He went deep, but a few sweeps of his strong arms brought him to the surface. He felt the water tugging at him with what seemed a hundred hands. What was happening?

His eyes widened in horror. The carrier's huge elevator, used to raise and lower the aircraft, was wide open, causing an enormous suction that was pulling mobs of sailors into it. Despite their screams and thrashings, a tremendous waterfall pulled them into the huge opening, where they disappeared from view into the maw of the ship. He was certain that he, too, would be sucked into the maelstrom with the other victims. Luckily, he caught on to some loose trash snagged to the flight deck. Holding it fast, he was able to secure his position until he spotted a rope dangling from the flight deck and managed to grasp it. He then climbed across the width of the deck, swung himself over the port railing, and slipped and slid along the port side into the sea. An expert swimmer, Yamagishi swam away from *Shinano* as fast and as straight as he could. He would be later rescued by one of the destroyers.

Aboard the destroyer *Yukikaze*, Lieutenant Shibata kept a running account of the ship's rescue efforts to Captain Terauchi, who was then at the helm. Captain Terauchi, viewing the hordes of men trying to clamber across several gangplanks between the ships and the hundreds of others jumping into the sea, said, "Lieutenant, don't pick up any sailors who cry or call for help. Such faint hearts can do our Navy no good. Pick up only the strong ones who remain calm and courageous."

Lieutenant Shibata cringed and said to himself: "What a price to pay for the lack of spirit. How cruel he is."

All the time, *Yukikaze* was dropping lines to the sailors in the sea. Some held on until the men aboard the destroyers could haul them up. Others, too exhausted to help themselves, were abandoned to drown. Far more men fell from lines and drowned than were rescued.

Captain Abe had ordered all the seamen and petty officers assigned to the bridge and command post to save themselves.

Captain Mikami, grasping the back of a chair, was the first to speak for the staff. "Sir, your gratitude and compliments are most welcome. We shall never fail Dai Nippon. But what about you, sir? Surely you will leave the ship with us."

Captain Abe was silent for a moment. "Captain Mikami, staff officers, I shall remain aboard. I take this action alone. I was at Midway and witnessed the decision of Admiral Yamaguchi and Captain Kono not to abandon the *Hiryu*. I have concluded in the years since that their way was correct for a commanding officer. Farewell, gentlemen."

The navigator, however, had no intention of jumping from *Shinano* and said, "I intend to stay with Captain Abe until the end."

The small party of *Shinano* men moved slowly away from the dying ship, passing through similar groups and lone seamen who were trying to make it to safety. Ensign Shoda's group had propelled themselves almost 200 yards from the ship when the officer heard a tremendous hissing sound. He looked about to see *Shinano*'s red hull standing almost straight up, with the bow pointing skyward.

All about him the sailors in the sea were staring back wide-eyed for a final glimpse of their ship and hundreds of their desperate comrades still clutching the rails and decks, awaiting their end in a resigned and benign fashion.

Shinano's stern dipped deeper into the ocean, raising the bow in a final salute to the sky. She would hang for a moment as the seawater pounded through her to flood the remaining space, then plunge 4,000 meters to the floor of the Pacific. Sucked down with her were Captain Abe and Ensign Yasuda, the entombed living and dying, and hundreds of the men clutching helplessly to her hull and decks. ■

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Photo: Diana Walker

ELLIOTT ABRAMS: THE TEFLON ASSISTANT SECRETARY

by Eric Alterman

Ollie North is gone. John Poindexter is gone. William Casey is gone. Even Don Regan is gone. But Elliott Abrams, who is, more than anyone, officially and substantially responsible for the contra policy that has been such a disaster for the Reagan administration, is still giving orders.

Despite serious questions about Abrams's involvement in supplying the Nicaraguan contras, the hard-line assistant secretary of state for Latin American affairs appears to have ridden out the storm that felled his colleagues on the contra support team. Abrams and his staff were reportedly relieved by the content of the Tower Commission report. Since the outbreak of the scandal, Abrams has returned on various occasions to face his critics on Capitol Hill. Unlike North and Poindexter, Abrams answered every question fired at him. His political adversary on the Senate Foreign Relations Committee, Christopher Dodd, praised Abrams's forthcoming attitude. At a House hearing on future U.S. aid programs, Abrams was treated not as an object of scandal, but simply as a State Department officer who had a program to administer.

Abrams still has his job in part because, according to the evidence revealed so far, he has steered just clear of illegality, and in part because he has practiced the neoconservative art of deflecting even clearly legitimate criticism by attacking the left-liberal biases of his opponents. He has not always been as far to the right as he is now, but his enemy has always been the left.

No sex and drugs

In 1968 at Harvard, where the word liberal was often followed by "fascist" and Vietnam almost inevitably by "war criminal," where Dick Gregory received more support in an election poll than either of the two major party candidates, and where the conservatives on campus split their vote between Bobby Kennedy and Eugene McCarthy, 19-year-old Elliott Abrams was a lonely voice for Hubert Humphrey. Humphrey, the standard-bearer of cold war liberalism, was undergoing a process of political disintegration, unable to distance himself from a war that even President Johnson likened to a one-eyed retarded child. Amazingly, Humphrey allowed Nixon to paint

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himself the "peace candidate," then prattled on about "the politics of joy" in the wake of the killings of Kennedy and King.

What drew Abrams—of liberal parentage and a progressive education—to support Humphrey? Idealism? What idealism could there be in supporting a worn-out candidate and a failed policy in Vietnam? Ambition? The future of the party, particularly for bright young men from Harvard, was clearly with the "Dump the Hump" legions, who, four years later, would coalesce in the McGovern candidacy.

Abrams chose Humphrey because the peace movement wanted not merely to end the war but to smash the establishment with which he identified. Steven Kelman, one of Abrams's college roommates and now professor of public policy at Harvard's Kennedy School of Government, recalls Abrams seemed uncommonly concerned about "the real world" outside Harvard. He remembers him as a "basically happy, well-adjusted, and unalienated guy. He had good relations with his family and was always far more oriented towards success, including monetary, than anybody else we knew."

At Harvard, Abrams ensconced himself in Adams House, a hub of left-wing activity. He was definitely "different," even from his own crowd of anti-SDS conservatives and social democrats. Clean-shaven, neatly groomed, and serious to the point of eccentricity, Abrams stood out on campus as a metaphor for the parents everybody had left behind. He seemed immunized against the common collegiate attractions of sex, drugs, and rock 'n roll. His own theory as to why is that his Greenwich Village high school, Elizabeth Irwin, "constituted an inoculation of sorts.... Marijuana was all over Elizabeth Irwin when I was in high school. That style of dress, radical politics. And it was quite clear to me that this was not a manifestation of individual thought; it was mass thoughtlessness." Moreover, he recalls, "My parents were more traditional in a number of ways than most parents raising children in the sixties.... There were very strict rules." "Elliot was completely out of sympathy with the cultural tone of the sixties," says Benjamin Ross, another roommate. "He was the only person I ever met who looked more comfortable in a brand new pair of Levis than worn-out ones."

Anti-war, anti-SDS

Abrams entered college with the demeanor of a small-town pastor and the politics of an Americans for Democratic Action (ADA) liberal. He thought hard, made up his mind, and then spoke it to anybody who would listen. In those days, Abrams spoke as a disillusioned liberal, but one who still believed in the possibility of a reformed, peaceful, and progressive American government. In his first published article, in *The New Leader* in 1968, he explained to the magazine's fuddy-duddy readership that students were "voicing more subtle objections, I suppose, than are convenient...we are talking about problems that even prosperity cannot solve." He worried that the war in Vietnam caused America's image in the world to suffer new damage each day the war went on. "This is unfair to me and to my generation," he complained. "Destroy the irreplaceable and you deprive us of our birthright.... There are riots in our cities and 10,000 boys are dying in Vietnam and people have the nerve to tell us we object to the president because of his style."

An Abrams piece published a year later on the SDS riot at Harvard and the ensuing student strike contained this passage about the Cambridge police: "With their helmets, plastic face visors, and long riot clubs, the effect they created was not merely terrifying, but grotesque."

Abrams recalls these articles almost apologetically as "the most left-wing things I ever wrote." Yet more interesting than the left-wing voice of youth Abrams adopted is the sophistication of his writing style and sentiments. Abrams wrote about why American youth was aflame and described the events that struck terror into the hearts of Harvard students, administrators, and faculty without once resorting to rhetorical condemnation of either side. His critiques of liberal America have no hint of joyous rebellion or cynical contempt for his elders; they're models of hard-headed liberal analysis.

Nevertheless, in Myra McPherson's *Long Time Passing*, Abrams portrayed himself as "the rarest of political species—an outspoken hawk at Harvard—class of 1969." He told McPherson, "It always seemed to me that the so-called NLF forces, the Buddhists, were in fact not going to take over [Vietnam], but that the communists were going to take over. The notion that if the United States would just leave, the killing would stop was unbelievably foolish." In his office, Abrams puts aside his public revisionism and admits to having opposed the war in Vietnam, although he says he came to support the Nixon position in Vietnam and Cambodia by the time he left to get his masters at the London School of Economics.

Abrams, exempt from the draft for medical

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reasons, was opposed to Johnson's Vietnam policy while in college. But he was far more passionate in his opposition to the radical anti-Vietnam movement on campus that had united in SDS. "Elliot opposed the war," recalls Kelman, "but it's hard to say to what extent his opposition was his ticket to credibility. In order to get anyone to listen to you in those days, you had to be against the war."

Kelman wonders whether Abrams's current feelings about El Salvador and Nicaragua derive from his days in the besieged anti-SDS minority at Adams House: "In many ways he is still living in the sixties...where Harvard is about to be taken over by left-wing radicals." Dan Hastings, a law school comrade who is now a New York attorney and conservative Republican, disagrees: "Elliot had the rare personal experience to observe a genuine totalitarian group—the SDS—exercise its influence in American life."

All in the family

While a law student, Abrams began to impress leading neoconservative intellectuals. He rented the attic of Nathan Glazer, who recruited him to write for *The Public Interest*. Glazer also introduced him to Norman Podhoretz, who was in the market for bright new conservatives for *Commentary*. Though increasingly skeptical of liberal solutions to age-old problems of poverty and race relations, Abrams's writings remained civil and reserved. Like Podhoretz, Irving Kristol, and most of the New York-Cambridge neoconservatives, Abrams concentrated much of his criticism on the New Politics wing of the Democratic party.

After finishing law school, Abrams worked briefly for the high-powered New York law firm of Breed, Abbott and Morgan. He was getting rich, but he was bored. "These people don't even read *Commentary*," he complained to a friend. So he accepted a job with Senator Henry "Scoop" Jackson, the leader of the Democratic party's anti-McGovernism faction, and the father of political neoconservatism.

Political neoconservatism, nurtured in Washington, was a parallel development to that of the New York neoconservative intellectuals, though instead of Marxists becoming Nietzscheans, Democratic Cold War anticommunists became Republican Cold War anticommunists. In the years before he became a Republican and joined the Reagan State Department, Abrams straddled the worlds of political and intellectual neoconservatism, carefully maintaining his ties to the centrist establishment in both cities. He continued to contribute to *Commentary*, keeping his rhetoric civil and deferential rather than adopting the inflammatory, prosecutorial tones of Podhoretz. Abrams left Jackson's staff in 1976 to become special counsel, then chief of staff for the then- neoconservative senator, Daniel Patrick Moynihan. There, too, Abrams impressed his associates. Chester Finn, now assistant secretary of education for research and improvement, Charles Horner, now USIA assistant director for programs, and Timothy Russert, now vice-president of NBC News, all former Moynihan aides, are unanimous in their undiluted praise for their ex-boss, Abrams.

When Jimmy Carter was elected president in 1976, his administration infuriated Abrams and his friends by refusing to appoint them to important foreign policy jobs. "We were completely frozen out," he complained to Sidney Blumenthal. "We got one unbelievably minor job. It was a special negotiator position. Not for Polynesia. Not Macronesia. But Micronesia." That Carter chose Cyrus Vance, Zbigniew Brezinski, and James Schlesinger for his cabinet somehow convinced Abrams that Carter's was a "new left administration."

In 1980, Abrams married Rachel Mark Decter, Podhoretz's adopted daughter, in essence merging, in Abrams, the political and intellectual schools of neoconservatism. Podhoretz jokingly admits to trying to arrange the marriage, because Rachel "had a lot of dangerous friends." But in marrying Decter, Abrams also enlisted in what Blumenthal has called Podhoretz's neoconservative "family-run dry cleaners," which now includes Podhoretz, and Rachel's mother, Midge Decter, who is a writer and the executive director of the Committee for the Free World. It also includes their daughter, Naomi Munson, a frequent contributor to the committee's publication, *Contentions*, and her husband, Steve Munson, until recently the committee's deputy director. Their son, John Podhoretz, is executive editor of Sun Myung Moon's newsweekly, *Insight*.

After plotting revenge throughout the Carter administration, Abrams, in 1980, joined Democrats for Reagan and traveled across the country giving speeches to Jewish organizations on how much tougher Reagan would be than Carter was. Shortly after the election, Abrams enlisted in the conservative Counter-Establishment and became a card-carrying Republican. It was a propitious decision.

Alexander Haig appointed Abrams assistant secretary of state for international organizations;

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his job was to stay out of the way of Jeane Kirkpatrick, for whose operations at the UN he was ostensibly responsible.

At the outset of his stormy tenure, Haig had considered human rights sissy stuff and informed the senators who confirmed him that since terrorism was the most serious violation of human rights he could imagine, all resources previously devoted to the promotion of human rights by the American government would henceforth be devoted to terrorism. That position, and the administration's first nominee for it, Ernest Lefever, proved unpopular with Congress and the Washington media. So Haig redefined the job and sought a new nominee.

Abrams was named to the high-profile position in the wake of a leaked memo recommending his selection. The memo, ostensibly written by Deputy Secretary William Clark and Undersecretary Richard Kennedy, was actually written by Abrams. "Human rights means trouble," the memo said, "for it means choices which may adversely affect bilateral relations. At the very worst, we will have to speak honestly about our friends' human rights violations." Shortly after, in a memo approved by Reagan, Abrams wrote: "Human rights is not something we tack on to our foreign policy but is its very purpose: the defense of freedom in the world." Yet he also made clear that he saw U.S. human rights policy as a strategy to counter the Soviets.

The appointment was perfect both for Abrams and for the promotion of neoconservative philosophy. Nothing had annoyed Kristol, Kirkpatrick, and *Commentary* about Jimmy Carter so much as his constant complaining about this or that political prisoner in some anticommunist jail somewhere. "Carter never had a human rights philosophy except that the U.S. was generally a bad place going around the world doing bad things," says Abrams.

As assistant secretary, Abrams managed to redefine the concept of human rights with such political dexterity that it took his opponents in the human rights community a while to make sense of what he'd done. Most of them had not opposed his appointment, partially out of political necessity but also because they believed this "tough cookie-pusher," as William Safire called him, might actually mean some of the reasonable things he was saying.

Today, the list of complaints against Abrams by human rights activists and Central American experts is long and deep. Patricia Derian, Jimmy Carter's human rights secretary, calls Abrams's policies a mixture of "hatred, pandering, cries of anti-Americanism, screwy logic, and jingoistic slogans—all the shoddy hallmarks of the Reagan era of human rights and foreign policy." The former head of the State Department's Cuban Interests section in Havana, Wayne Smith, calls Abrams "a man willing to lie and misrepresent the facts about anything." Vice-chair of Americas Watch Committee, Aryeh Neier, thinks he sees in Abrams "an opportunist who uses human rights to advance other agendas" and the possessor of "a personal vicious streak." Larry Birns, the director of the Council for Hemispheric Affairs, considers Abrams "the most disreputable if not sleazy figure" he has met in 30 years of monitoring U.S.-Latin American relations.

Abrams regularly returns the favor. He calls former ambassador to El Salvador, Robert White, "a crank and a fanatical hater of the administration." Neier's human rights work is "garbage" and "completely politicized," and Father Robert Drinan of ADA "stinks" for comparing U.S. action in El Salvador and Nicaragua with the Soviet invasion of Afghanistan. Abrams routinely exercises his constitutional right to refuse to appear on platforms with such critics as Alexander Cockburn, Smith, Birns, and White. When informed that *The Nation*'s Christopher Hitchens was among the journalists who would be questioning him on one television news show, Abrams canceled his appearance. He has also instructed his staff not to deal with Birns or his organization.

Why the hatred? "I'll tell you why," Abrams volunteered. "Over the period of the Vietnam struggle in the U.S., the left, in which I include people like Mary McGrory, Anthony Lewis, and Aryeh Neier, became absolutely certain of its moral superiority over the right. They were accustomed to having policies they believed in challenged, but what drives them nuts is the attempt to undercut their position of moral superiority."

The Abrams attempt to undercut the "moral superiority" of the human rights community is based on the old "teach a man to fish" homily. Get a dissident out of jail, and you'll have to get another one out tomorrow. But teach a country to become democratic, and human rights will be codified and protected forever. As long, then, as a country is moving "in the direction of democracy," the U.S. must do what it can to avoid antagonizing that country's military so democratic reforms are allowed to proceed. Countries that are going to or have already gone communist, however, must be pressured to make

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THE NEW REPUBLIC

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"Elliott was completely out of sympathy with the cultural tone of the sixties," said Benjamin Ross, a college roommate. "He was the only person I ever met who looked more comfortable in a brand new pair of Levis than worn-out ones."

their ruling elites realize the cost of being undemocratic and refusing to respect human rights. "We consider anticommunism to be a human rights policy," said Abrams. Thus we have contras in Nicaragua, Savimbi in Angola, and rebels in Afghanistan and Cambodia. Abrams does admit there are serious limits to this kind of pressure. We haven't aided an armed struggle in, say, Poland "not because we don't have the right to...or because we wouldn't like to," he says, but because it could lead to nuclear war.

In some cases, Abrams and the administration may have had success with this kind of pressure, though, of course, how much influence our policies have is unknowable. Some countries in Latin America are moving slowly towards greater democracy. Abrams also opposed Jesse Helms's attempt to pressure the State Department closer to General Augusto Pinochet in Chile. There is also reason to be proud of our support for Corazon Aquino and her peaceful revolution, however belated it may have been.

Still, the net result of Abrams's shift in philosophical focus is that if a country receiving U.S. aid surrounds itself with the trappings of democratic process, it is likely that such things as torture, disappearances, and denial of *habeas corpus* will become less of a problem in bilateral relations—particularly if the country can point to a few Marxists in its hills.

No massacres

In early 1981, Haig drew the line against further Marxist advancement in El Salvador. The Salvadoran government, led by the tattered remains of a reformist coup and in the midst of a civil war with Marxist guerrillas, was helpless to control a military on a rampage. Hundreds of people were being murdered each month for political reasons in a country the size of Vermont. The U.S. Senate, confronted with reports of these massacres, passed legislation requiring the president to certify that the Salvadoran government was making progress toward controlling human rights abuses before Congress would grant him his requested military assistance. Reagan eventually circumvented this inconvenience using a pocket veto, but the certification hearings in the interim were highly embarrassing.

In July 1982, Abrams admitted to the House Foreign Affairs Committee that "human rights violations in El Salvador continue at levels that could easily dishearten us." That year, Tutela Legal, the human rights office of the archdiocese of San Salvador, attributed more than 6,000 political murders of noncombatants to the army, the security forces, and their allied paramilitary groups. While this was indeed an "improvement" of more than 50 percent compared to 1981 figures, there were also fewer potential victims after the tens of thousands of killings in 1980 and 1981. But, Abrams testified, the Salvadorans now had "a government freely elected, committed to democratic reform, including further free elections, and attempting...to make significant improvements in the human rights situation."

By early 1985, Abrams and the administration were declaring victory for their El Salvadoran policy. There had indeed been improvements. Death squad massacres had been reduced considerably. The 1982 elections resulted in a new constitution, and the election in 1984 brought to power Jose Napolean Duarte, a leader who had clear popular support. But Abrams and the administration oversold their success. No members of the death squads were ever brought to justice. The elections—with their mandatory voting, clear plastic voting boxes, and soldier escorts—were hardly pristine. And when the press reported human rights problems, Abrams dismissed them as fabrications. Appearing with Aryeh Neier on "Nightline" in February, Abrams insisted to Ted Koppel, "I'm telling you there were no massacres in El Salvador in 1984." When Neier asked about reported massacres in Los Llanitos in July and

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near the Gualsinga River in August, Abrams countered, "They never happened," insisting that such reports were often guerrilla propaganda. Yet remains of victims of the first massacre were observed and survivors were interviewed by correspondents from three major newspapers, the Catholic Church, and Americas Watch. "[R]eporters who went to the scene and looked at what took place, they were simply being propagandists for the guerrillas. Is that right?" asked Neier. Responded Abrams: "I would have to tell you that the U.S. embassy is in a better position than a newspaper which has a one-man bureau, to investigate what is going on in El Salvador." When asked by Koppel if the embassy had investigated reports, Abrams's confidence seemed to drop: "My memory is that we did, but I don't want to swear to it because I'd have to go back and look at the cables." Neier says embassy officials have told him the investigations never took place; the State Department has never offered proof to the contrary.

Disappearing evidence

Abrams has reacted similarly to other incidents that didn't suit his perspective. In April 1985, a leader of the Guatemalan Mutual Support Group (an organization of mothers of the disappeared), her brother, and two-year-old son, were found dead in their overturned car. Friends of the deceased had cause for suspicion; mourners at the funeral, for instance, noted that the child's fingernails were missing. The case drew the attention of the international press. Yet Abrams supported the official government explanation and asserted that "so far there is no evidence indicating other than that the deaths were due to an accident." In late 1986 Abrams denounced the continued protests of the group and one of its spokeswomen, Ninez de Garcia. "They are out to get a man [President Vinicio Cerezo Arevalo] who literally risked his life to bring democracy to Guatemala." President Cerezo probably has put his life on the line. And while the military remains powerful and the killings continue, there is now a civilian government in Guatemala; no small accomplishment given the country's authoritarian history. Rather than admit, however, that the country has a long way to go, Abrams simply impugned the motives of those pointing out uncomfortable facts. "Ninez de Garcia considers this country to be a fascist country," he went on. "She has no right to call herself a human rights worker."

In another incident, Beatriz Mann noted in an op-ed article for *The New York Times* that she had witnessed the assassination of 29-year-old Carlos Diaz in broad daylight on the streets of Guatemala City. She said that reports of the assassination never appeared in the press and that therefore the State Department's figures for deaths and disappearances probably were not accurate. In a letter to the editor, Abrams insisted that "the murder was reported in the Guatemalan press" and named a nonexistent newspaper. A State Department official later admitted that the newspaper report to which Abrams had referred was not a report of the assassination but a funeral announcement paid for and placed by the victim's family. There was no mention in the announcement of the cause of death.

Abrams has made strong assertions and then been unable or unwilling to back them up time and again. Perhaps the most widely publicized case was that of Patricia Lara, the left-leaning 35-year-old star reporter for the largest, most important newspaper in Colombia. Upon entering this country last October for a routine visit, Lara was detained and then imprisoned in maximum security at the Manhattan Correctional Center. Following a brief hearing at which she was told that her name had appeared on the Immigration Service's list of undesirable aliens, Lara was deported.

The imprisonment and deportation caused an international uproar. Lara was greeted at home as a heroine and widely referred to as "Patricia Daniloff." A few weeks later, Abrams appeared on "60 Minutes" to explain that Lara was not a "journalist" but an administrative terrorist directed by the Cuban secret service and M-19, the Colombian guerrilla organization. Lara had in fact written a book critical of M-19 and its Cuban connection. Colombian Defense Minister General Rafael Samudio Molina, in a December letter, informed Lara that the Colombian government had "no evidence" of her participation in guerrilla activities. Molina's letter, says Abrams, "would appear to be at variance with the facts as they are known to both the United States and the Colombian government."

Contra Inc.

With the contras, as with the Salvadoran government, Abrams has attempted to discredit reports of human rights violations as politically motivated. He has told Congress that "there are strong grounds for skepticism concerning many of the charges of abuse," and personally, Abrams did "not think it is that big a problem." As with

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At the New York law firm of Breed, Abbott and Morgan, Abrams was getting rich, but he was bored. "These people don't even read *Commentary*," he complained to a friend.

El Salvador, Abrams is simply trying to wish away inconvenient aspects of reality. While no solid figures are available from any credible sources, Americas Watch reported that in 1986 the contras continued to engage in, among other reprehensible practices, "selective but systematic killings...indiscriminate attacks against civilians...wholesale kidnapping of civilians for the apparent purposes of recruitment as well as intimidation...including a significant number of children."

On April 30, 1985, Abrams was appointed assistant secretary for Latin American Affairs. Flacking for the contras has been just one of his new responsibilities. The Nicaraguan Humanitarian Assistance Office (NHAO), set up when Congress mandated that the CIA was to have no involvement in the distribution of the original $27 million "humanitarian" contra aid package, is under Abrams's direct charge.

Abrams chaired the weekly interagency meetings attended by North, officials from the Pentagon, the CIA, and whomever else was needed to discuss logistical details of the contra war. The agenda at these meetings reportedly ranged from the number of grenade launchers needed to whether or not contra leader Adolfo Calero should appear on "Nightline."

Although Abrams so far has survived the contra investigations, the evidence shows he came perilously close to running afoul of the law:

- An associate of North's named Robert W. Owen, who received a $50,000 contract from Abrams's NHAO for unspecified services, has been identified by former mercenary Jack Terrell as having been with Adolfo Calero at the contra planning session of the murder of Eden Pastora, a contra leader the CIA was unable to control. Pastora escaped with only injuries, but four journalists were killed.
- Abrams has admitted to giving the number of North's Swiss bank account to agents of the sultan of Brunei, who then donated $10 million, since "lost," to fund the contras. When put under oath by the Senate Intelligence Committee, Abrams apologized to Congress for his earlier testimony, which "clearly left a misleading impression," about whether there had been any solicitation, according to the committee's report.
- U.S. ambassador to Costa Rica, Lewis A. Tambs, who was under Abrams's direct charge, operated a secret airstrip in that country to supply the contras against the wishes of its president, Oscar Arias Sanchez, and without the knowledge, much less the authorization, of Congress. Tambs says his order to "open up a southern front" for the contras was given by North and "confirmed by Abrams." Moreover, when Arias threatened to go public about the existence of the airstrip, North, according to the Tower Commission report, informed Poindexter that he held a conference call with Abrams, Tambs, and a CIA official in which all agreed that the Costa Rican president should be threatened with the cutoff of U.S. aid unless he kept his mouth shut. North wrote that he made some threats and that Arias had gotten "the same word from Elliott." Abrams told the Tower Commission that he could not remember how or when he had learned about the airstrip. Abrams denies ever agreeing that Arias should be threatened with the aid cutoff. Arias denies ever speaking to North.

Rhetoric at the door

Since taking responsibility for the contras, Abrams, a brilliant bureaucrat when it comes to turf protection, has professed a startling degree of ignorance before congressional committees, not only of North's activities and the Costa Rican operation but also of the constant resupply of the contras by mercenaries using the Ilopango airbase in El Salvador, a base we practically own and operate. Abrams's enthusiasm for such operations is unhidden. "Some members of Congress accuse us of approving of the [private aid]

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with a wink and a nod," he has explained. "A wink and a nod, hell. We think it has been fine." Without apology, Abrams told the House Western Hemisphere Subcommittee that NHAO could not account for more than $16 million of the original $27 million appropriated by Congress. He then instructed his country officers to refuse to cooperate with the General Accounting Office's audit of those funds that had been ordered by Congress.

Abrams has managed to retain plausible deniability regarding the worst aspects of contra funding. "Everybody involved in the [restricted interagency group] knew that Ollie was somehow connected" to contra funding, Abrams, with disarming candor, told the Tower Commission. "I think most of us were careful not to ask lots of questions other than once in a while to say 'Is this okay? Is this stuff legal?' "

But that's not the only reason he's still around. George Shultz likes him, in part because Abrams buys the secretary a measure of good will from the right wing. Abrams is also a capable politician. A man with a moderate past, Abrams knows to leave his vituperative neoconservative rhetoric at the door when lobbying moderate congressmen who have been the key to continued contra aid. Yet that same rhetoric has also given him leverage with conservatives in Washington, and with the squabbling egos in the contra high command.

Cracking liberals

For all his rigid ideology and political arrogance, I must admit that I could not help liking Abrams when I interviewed him. He is clearly dedicated to what he considers a just cause and, as much as anyone in the administration, has put himself and his political future on the line in support of that cause. But his zealotry in fighting those he has deemed communists, socialists, liberals, or whomever the enemy happens to be at the moment, has blinded Abrams. Honest disagreements about means and ends are no longer possible. Intellectual arguments are judged not on principle but on their usefulness as tactics in the ultimate struggle.

Rather than acknowledge that criticisms of his policy might derive from differences on how to contain the Sandinista revolution or whether or not the U.S. has any right to intervene in Nicaragua, Abrams regularly refuses to appear publicly with those who would question his policies' ends. The motive is not fear; Abrams is a skilled debater and could certainly hold his own. But by refusing to countenance them as opponents, he helps eliminate dissident views from the public dialogue.

Abrams complained to me that the "liberal establishment line" had, until recently, considered the president's SDI program to be "madness" and the contra policy to be "wrong." "But now," he observed, "they're cracking." Who, I asked, is the liberal establishment? "*The Washington Post*, *The New York Times*, *Time*, *Newsweek*, the TV networks," plus a few Democratic politicians and some academics, in other words, the same journalists Abrams described in 1984 as "simply yesterday's peace activists in somewhat more decorous garb." "It is not surprising," he noted, "that their view of the world is distorted by a seemingly invincible anti-Americanism on the one hand, and by a profound reluctance to criticize America's adversaries on the other." The SDS is back, only they've changed their initials to CBS, NBC, and ABC.

In the middle of last summer, while the administration was secretly diverting funds to arm the contras, Abrams gave a speech to the Inter-American Defense College. He told his audience, "Overreaction will only discredit us. We must guard against fighting the enemy indiscriminately with an excess of zeal or an excess of force. To lose sight of the values we defend is to help our enemies!" Well said. ■

The remains of victims of a massacre in El Salvador were observed by correspondents from three major newspapers, the Catholic Church, and Americas Watch. Yet Abrams said the massacres "never happened."

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WHO'S WHO in the Administration

One reason the Tower Commission report did not deal too harshly with Col. **Robert McFarlane** may be that he had in the past served as aide to two of its members, **Brent Scowcroft** and **John Tower**. He may also have been helped by the sympathy that was inspired by his suicide attempt, which seems to have won him a period of tenderness from the press as well. It is our opinion, however, that McFarlane will emerge as one of the principal architects of Irangate. . . .

The Washington Times's Michael Hedges, who seems to have the best sources on Lt. Col. **Oliver North**, recently reported some interesting quotes and observations from North's friends:

"Ollie is the kind of guy who'd take that hill for you whether you wanted it taken or not."

"I saw a side of him that was malevolent, so opportunistic that finally you had to get away from him."

"He always had to prove he was better than everyone else."

"He could be a little crazy," or "the most intense person I've ever seen," or a man who, "if I were in trouble, he'd be one of the first I'd go to."

Another said that, when North took off the jacket of his uniform, "he'd set it up in a chair beside him so everybody could see his medals."...

Howard Baker is going to have to come up with some red meat for **Ronald Reagan**'s conservative constituency. By appointing **Kenneth Duberstein** as his chief deputy, he has enraged the right-wingers who have always regarded Duberstein's mentor, **Jacob Javits** as a flaming liberal. Of the three others Baker brought in with him, **A.B Culvahouse** is said to be well-liked by the White House staff, **James Cannon** is not around very much and apparently isn't in the running for a major post, and **Thomas Griscom** won the director of communications job after establishing his territorial claim by physically taking over **Pat Buchanan**'s old office several weeks earlier. **Dennis Thomas** had tried a similar ploy but it failed when his patron, **Donald Regan**, went into exile. . . . Of the holdovers, **Marlin Fitzwater, Nancy Risque,** and **Frank Donatelli** are all smiling because Baker had told them he wants them to stay on. . . . **David Chew** appears to be the only one of **Donald Regan**'s "mice" to have a chance of surviving in the Baker White House. . . .

Frank J. Gaffney is almost certain that he will be **Richard Perle**'s successor as assistant secretary of defense for international security policy. If he is, expect no changes. Gaffney is Perle's protege. . . .

Why has the nomination of **Trusten F. Crigler** to be ambassador to Somalia been put on hold? It seems that Senator **Jesse Helms** has discovered that in 1984 **Crigler** contributed $100 to the **Mondale** campaign. . . .

Clearly, **Richard Gephardt**'s presidential campaign has not electrified the nation, but it is impressive that he already has won the support of 21 of his House colleagues. . . .

Anne Burford says that she knew about the danger of radon gas in 1982 and tried to get $2 million to study the problem but got this response from **Fred Khedouri**, then associate director of the Office of Management and Budget: "Come on, if we give you $2 million, you're liable to uncover a problem and then you'll be coming back for millions more."

Khedouri is now staff director for **George Bush**. Another Bush aide, **Donald Gregg**, may be in hot water for having told reporters that he had never discussed the contras in an August meeting with **Felix Rodriguez**, key leader in the contra supply effort. Gregg said all they talked about was El Salvador. Later, however, according to David Hoffman of *The Washington Post*, "Bush's office issued a chronology showing that Gregg had met with Rodriguez last August to discuss problems in the resupply operations, and that Gregg convened a second meeting afterward of top U.S. officials to see how the resupply effort could be helped." This was a time when Congress had cut off U.S. military aid to the contras. When asked why Gregg had at first failed to disclose his contra discussions with Rodriguez, Bush said, "He forgot."...

In

WHITE HOUSE

Deputy Chief of Staff—**Kenneth Duberstein** has been vice president at Timmons and Co. Inc, a Washington lobbying firm.

Assistant to the President for Communications and Planning—**Thomas C. Griscom** was president and chief operating officer of Ogilvy and Mather, a Washington public relations firm.

Assistant to the President for Operations—**Rhett Dawson** has been staff director on the Tower Commission.

Assistant to the President for Domestic Affairs—**T. Kenneth Cribb** was counselor to the attorney general.

Deputy Press Secretary—**Leslye A. Arsht** was director of public affairs at Cabot Corp.

Deputy Assistant to the President and Director of Political Affairs—**Franklin L. Lavin** was deputy executive secretary at the NSC.

DEFENSE

Chief of Staff, Army—**Gen. Carl E. Vuono** was commanding general of Army training and doctrine command at Ft. Monroe, Virginia.

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EDUCATION
Undersecretary—**Glenn C. Loury** was at the John F. Kennedy School of Government at Harvard University.
Assistant Secretary for Civil Rights—**LeGree S. Daniels** was deputy commonwealth secretary of Pennsylvania.

INTERIOR
Chief Operating Officer—(a new title, replacing the position of Undersecretary)—**Earl E. Gjelde** was special assistant to the secretary.

STATE
Inspector General—**Sherman M. Funk** was the inspector general at the Department of Commerce.
Ambassador-at-Large for Counter-Terrorism—**L. Paul Bremmer** was ambassador to the Netherlands.

TRANSPORTATION
Administrator, Federal Aviation Administration—**T. Allan McArtor** was senior vice president at Federal Express.

TREASURY
Deputy Secretary—**M. Peter McPherson** has been administrator of the Agency for International Development (AID).

AGENCIES AND COMMISSIONS
Administrator, Small Business Administration—**James Abdnor** was senator from South Dakota.

Out

WHITE HOUSE
Deputy Assistant to the President and Director of Political Affairs—**Haley Barbour.**
Assistant Press Secretary—**Dale A. Petroskey.**

DEFENSE
Assistant Secretary for International Security Policy—**Richard N. Perle.**
Deputy Secretary for Planning and Resources—**Dov S. Zakheim.**

INTERIOR
Undersecretary—**Ann McLaughlin.**

JUSTICE
Assistant Attorney General, Tax Division—**Roger M. Olsen.**

TRANSPORTATION
Administrator, Federal Aviation Administration—**Donald D. Engen.**

TREASURY
Deputy Secretary—**Richard G. Darman.**

AGENCIES AND COMMISSIONS
Chairman, Securities and Exchange Commission—**John S. R. Shad.**
Director, Selective Service System—**William A. Clinkscales Jr.**

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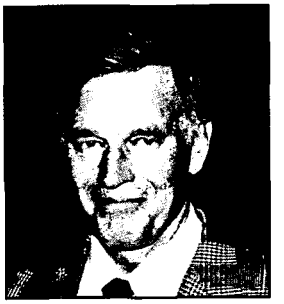

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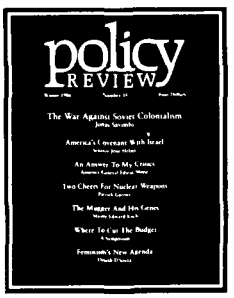

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by Tim Weiner

THE DARK SECRET OF THE BLACK BUDGET

By making $35 billion in defense programs invisible, the Pentagon is hurting national security.

Rep. Larry Hopkins walks alone to a lead-lined chamber in the Capitol they call "the vault." There, a uniformed officer briefs Hopkins about an expensive defense program. He's not allowed to take notes. When briefing papers are shown to him, he can't have copies. When he leaves he's allowed to talk to hardly anyone about what he's heard.

For about $35 billion worth of defense programs, this is what is known as "congressional oversight." "You just sit there and get the hose treatment for several hours," Hopkins says.

There have always been programs and weapons that were so top secret that public hearings were deemed inappropriate. But the Reagan administration has tripled spending for "black budget" programs that receive no public scrutiny at all. Spending on secret weapons has jumped nearly tenfold and spending on intelligence activities has doubled. The black budget is now more than federal spending on education, transportation, or the environment and roughly equal to all federal spending on health care. In fact, it is the fastest-growing major sector of the federal budget.

Obviously some of those programs should not be debated on C-SPAN or analyzed in *The Washington Post*. But today, more than a dime of every defense dollar is concealed. If the few black budget projects we do know about are any indication, it has become a hiding place not just for weapons and operations that should be secret but for those that are poorly managed or conceived.

Tim Weiner is a reporter for the Philadelphia Inquirer, *which published his three-part series on the black budget in February.*

As Thomas Amlie, a civilian who works for the Air Force as a financial watchdog and who has high security clearance, put it, the military has three reasons for having black projects: "One, you're doing something that should genuinely be secret. There's only a couple of those. Two, you're doing something so damn stupid you don't want anybody to know about it. And three, you want to rip the money bag open and get out a shovel, because there is no accountability whatsoever."

Kamikaze dolphins

Putting a program in the black budget doesn't just mean Congress can't check up on it, but that its very existence won't be acknowledged, and that its price tag generally won't be revealed. Black programs are usually classified as "sensitive compartmented information." There are more than 10,000 compartments, each with a specific codeword; someone who has the codeword for just one compartment cannot have access to information about a black program in another compartment. About 50 members of Congress know bits and pieces about particular programs. But only a handful of members and congressional staff—too few to enable serious congressional oversight—have broad access to information about the whole black budget.

Black programs include the Navy's advanced tactical fighter; the Stealth bomber, the most expensive military project in American history; and Milstar satellites, the new global switchboard for nuclear war, designed to relay the launch orders for nuclear weapons from 70,000 miles in space. These three programs together may wind up costing somewhere in the neighborhood of $100

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billion. Black programs also include 155 mm nuclear shells, a host of covert special operations units, the neutron bomb, the advanced cruise missile, and gadgetry to make submarines quieter.

More than two-thirds of the money is hidden in the Pentagon's research, development, and procurement budgets—which include operating funds for intelligence. At least half the Pentagon's black budget funds the CIA, the global listening posts of the National Security Agency, and the super-secret satellites of the National Reconnaissance Office. The rest of the money is distributed among Defense department operations, maintenance and personnel budgets, NASA, and other agencies. All these—and only God and Weinberger know what else—are shielded by the cloak of secrecy once reserved solely for the intelligence agencies.

Do these programs and weapons work? Are they on schedule? Will they be ruinously expensive? Will they be destabilizing? To the public, and to the great majority of Congress, comes the Pentagon's reply: None of your business.

Caspar Weinberger says they are being kept secret because exposing them to outside scrutiny would truly endanger national security. What evidence we have, however, does not inspire confidence in Weinberger's assertion.

For example, the black budget includes the navy's Marine Mammal Project, a program to train dolphins as underwater kamikazes. It also includes the Pentagon's $40 billion plan to prepare for World War IV. Four? Four. Since the Reagan administration came into office the strategy has been to fight a six-month long nuclear exchange and still have enough left over to fight the next round. Since there may be a shortage of people to run such a conflict, the strategy calls for computers to manage it, orchestrating space satellites and nuclear weapons over a global battlefield. Part of the program is the Defense Communications Agency's Island Sun, a project to create mobile ground terminals in the form of lead-lined trucks, enabling generals to dodge Soviet nuclear attacks as they speed down the nation's interstate highways. Also classified are related funds for the robots that could gallop like horses and walk like men and would carry out computerized orders as they roamed the radioactive battlefront.

The Air Force has the highest percentage of secret spending of any of the armed services. More than one-third of the air force budget for research, development, and procurement—about $17 billion—is hidden. In the 1988 budget request, nearly a third of the $2.3 billion for buying tactical missiles is classified. More than 40 percent of the $8.4 billion for air force research and development of strategic nuclear programs is secret, as is nearly every penny of the $2.3 billion for research and development of air force intelligence and communications projects. There are also huge entries in the air force procurement budget such as Selected Activities—$4.7 billion—and Special Programs—$2.3 billion.

Throughout American history there have been top secret projects that, over time, became public. The black budget has reversed that process. Take the case of Milstar, the global communications switchboard for commanding and controlling strategic forces in a nuclear war. It will consist of thousands of computer terminals on earth and a constellation of satellites operating in deep space. Congress authorized $827 million for Milstar in fiscal 1987. How do we know that? Because last year it wasn't a secret.

This year, the Pentagon made the Milstar satellites disappear from the unclassified budget. Although everybody in the defense community knows the purpose of the Milstar satellites, they have gone black.

There are only two possible reasons for this. Either the Air Force has decided to piggyback top secret intelligence sensors on the Milstar satellites or the satellites are becoming far too costly to withstand public debate. Milstar has the highest national priority, a so-called "brickbat" classification, so perhaps money is no object. But a financial officer at a major Milstar subcontractor said in an interview that the project is far behind schedule and over budget. A systems engineer at Lockheed Missile and Space Co., the prime Milstar contractor, concurred. "In a black project, people don't worry about money," he said. "If you need money, you got it. If you screw up and you need more, you got it. You're just

Anyone interested in the Stealth bomber can buy a book on it in the Pentagon bookstore or purchase a model in any toy store. Yet it's still in the black budget.

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"In a black project, people don't worry about money," said a Lockheed engineer. "If you need money, you got it. If you screw up and need more, you got it."

pouring money into the thing until you get it right. The incentive isn't there to do it right the first time. Who's going to question it?"

No heads

Whatever national security advantage there is in keeping some of the projects quiet erodes when they become so large that they are impossible to conceal. The Stealth bomber is the most well-known top secret project. Anyone interested can buy a book on it in the Pentagon bookstore or purchase a model in any toy store. Yet it's still in the black budget. Now in the early stages of production, some of its procurement funds are stashed in an air force line item innocuously titled "Other Production Charges." The line item is $3.1 billion. The Air Force wants 132 Stealth bombers delivered by the early 1990s. The most conservative cost estimate to date, released to a few members of Congress by the Pentagon last year, places the aircraft's cost at about $330 million. Other military analysts say Stealth will come in at about $450 million apiece—or more. If that last estimate is accurate, the Stealth bombers' total cost will be $60 billion—a sum equal to the combined annual budgets of New York, New Jersey, and Pennsylvania. Stealth technology, which is designed to enable aircraft and missiles to elude enemy radar, is being used for air force fighters and bombers, nuclear cruise missiles, pilotless drones, and navy attack planes at a total cost somewhere in excess of $100 billion. Because of the black budget status of the Stealth technology, Pentagon officials can neither sing its praises nor openly deny published reports that the Stealth bomber already is outdated because its heralded radar-evading ability has been outstripped by advances in over-the-horizon radar technology. Last summer, eyeballs rolled heavenward during an open hearing before the House Energy and Commerce Committee as Pentagon officials denied that Stealth aircraft exist.

The hearings were the result of a series of security lapses and frauds on Stealth projects. The Stealth-related criminal cases are only "the tip of the iceberg" of illegal conduct on black projects, said Robert C. Bonner, the U.S. attorney in Los Angeles, a hub of secret military contracting. One engineer hired by Northrop Corp., the lead contractor on the Stealth bomber, was a Florida chain-gang alumnus named William Reinke. He was convicted of defrauding Northrop of more than $600,000 by channeling Stealth subcontracts to a company he secretly owned.

Of course, fraud and cost overruns are not limited to black budget items. But shrouding them in secrecy compounds the Pentagon's usual problems. In one case, a Northrop purchasing agent, Ronald Brousseau, was convicted of rigging contracts on Stealth in exchange for kickbacks from subcontractors. He told a government informant wearing a concealed tape recorder how easy it was: "We don't have any heads [of the projects], we don't have any supervisory people.... Nobody questions dollars or anything like that. As long as I can show competition—whether it's true competition or courtesy competition or bullshit competition, you know."

Because information is so compartmentalized, there is virtually no supervision, critics claim. Fewer supervisors, fewer auditors, and fewer people looking over fewer shoulders cannot help but lead to runaway waste. "The Pentagon keeps these programs of almost unbelievable size secret from Congress, from the General Accounting Office, from its own auditing agencies," says John Dingell, chairman of the House Energy and Commerce Committee. "And everytime they have kept secrets from us, the facts, when they come out, have been surrounded by a bodyguard of lies." Unfortunately, Stealth will go straight into production without operational test flights, a black-budget induced practice that is certain to make matters worse.

Given the history of Stealth and Milstar, it shouldn't be surprising that many of those outside the Pentagon who have been the most throughly briefed on black budget programs say they could easily stand the light of public scrutiny. House Armed Services staff director Anthony Battista, who has had more access to black budget documents than most civilians, said the Pentagon has placed some programs in the black budget "not because of national securi-

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THE WASHINGTON MONTHLY

Journalism Award

for February 1987 is presented to

Seymour M. Hersh
The New York Times Magazine

In "Target Qaddafi," Seymour Hersh tears open the history of the Reagan administration's obsession with eliminating the Libyan leader. Hersh reveals the various CIA plots to help overthrow Qaddafi and how the stage was set, with what was probably fabricated evidence of Libyan terrorism, for the Air Force bombing attack that killed more than 100 civilians but not its true target, Qaddafi. That attempted assassination, Hersh shows, was secretly planned by a small group within the NSC, including John Poindexter and Oliver North.

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation.

The award for stories published or aired in April will be announced in the July/August issue. Nominations will close May 15. Nominations should be accompanied by two copies of the story or stories.

ty but to circumvent congressional review procedures." In some instances, he said, programs have "gone black" to conceal from Congress the fact that the Pentagon awarded lucrative contracts to losing competitors. In 1985, he said, the Pentagon gave the contract for a secret system to jam radar to the less-qualified contractor. "There are very few instances where revealing the cost of a program would adversely affect national security," Battista said flatly.

The senior members of the House Armed Services Committee, Chairman Les Aspin and Republican William L. Dickinson, have said that 70 percent of the military's black budget could be declassified at no risk to national security. Senator William Cohen, a well-briefed member of the intelligence committee, agrees many of them could be declassified. "The fact is that it's difficult to provide adequate oversight of black programs—which is one reason some of them are black."

Richard Garwin, a longtime defense consultant and presidential adviser who helped develop the hydrogen bomb, concurs: "I know quite a lot of black programs, and many of them are well-managed. But the proliferation of these programs is very bad. It is primarily to avert criticism and evaluation. It is part of a general trend of this administration to block information on its programs, whether they be classified or unclassified. And that is profoundly anti-democratic."

Rolls-Royce and hot air

Too much secrecy, of course, can cause problems not just with weapons but with covert operations as well, as the National Security Council has vividly shown. The growth of the Pentagon's black budget has also provided a haven for more such operations. Today, spending for covert operations and secret Pentagon units around the world totals at least $2 billion, more than at any time since the height of the Vietnam war, according to congressional sources and military analysts. The money is shared by the CIA and a host of secret forces skilled in espionage, sabotage, psychological warfare, and the use of tactical nuclear weapons—small land mines called "backpack nukes." Most covert missions funded through the Pentagon are handled by the Special Operations Forces, whose members include army Green Berets and Rangers, navy SEAL commandos and an air force wing.

The pitfalls of black-budget units can be seen in the Intelligence Support Activity (ISA), a special branch supported by Pentagon black-

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budget special operations funds. The ISA was—or may still be for all we know—a Pentagon covert-action unit comprised of about 250 officers, which rose from the ashes of the disastrous 1979 Iranian hostage rescue mission, Operation Eagle Claw. The Pentagon wanted a permanent, unified, clandestine group to conduct paramilitary actions and gather intelligence.

"The Activity," as its members called it, supported the contras and worked on covert actions in Europe, Africa, Southeast Asia, and the Middle East, according to intelligence analysts. It reportedly exchanged munitions for information from a country with which the United States has no diplomatic relations.

Sound familiar? There's more. One of its point men, according to congressional sources, was Lt. Col. Oliver North, who worked with the Activity on attempts to free Brig. Gen. James L. Dozier, the senior American NATO officer kidnapped for six weeks by Red Brigade terrorists in Italy.

In March 1983, the Activity's cover was blown. A retired Special Forces lieutenant colonel named James "Bo" Gritz told a House Foreign Affairs subcommittee that he had worked with the Activity on plans for a secret mission to find Americans missing in Laos. "The Activity was a field unit and would have put an American across into Laos to verify, using various recording means, the presence of Americans thought to be at specified locations," Gritz testified.

This was marvelous derring-do, and few would argue with the need for a military unit that could pull off rescue missions like this. But there was one problem: Nobody in Congress had ever heard of "the Activity." A subsequent internal Pentagon investigation determined that the Activity was out of control, running without effective leadership or oversight. Investigators found, for example, that officers in the Activity had bought a Rolls-Royce and a hot air balloon from federal Drug Enforcement Administration agents.

Officers associated with the Activity retired or were quietly reassigned, according to intelligence analysts. One of them was Richard Secord, who left the Pentagon in May 1983 to become a private arms dealer as well as a $1,260-a-week consultant to the Pentagon. In the fall of 1983, the Pentagon hired him as a member of the Special Operations Policy Advisory Group, a group of retired generals who were asked to provide "disinterested, expert advice" on covert actions. While Secord advised the Pentagon, he also worked secretly with North in the Iran arms deal.

No one seems to know exactly what became of the Activity. Did it cease to exist after its cover was blown? Was it renamed and reshuffled? Were its members swallowed up by the revitalized Special Operations Forces? Pentagon officials deny "the Activity" existed in the first place, so they cannot confirm or deny its continued existence.

A tree grows in the Pentagon

The black budget should not pit those advocating government openness against those advocating national security. Secrecy invariably increases the chances of waste or screw-ups. Sometimes the need to keep information tightly controlled forces us to take that risk. But when the project is already well known (as with Stealth and Milstar), or when complete secrecy is not needed, the Pentagon should move toward disclosure—in the interest of national security.

In addition to endangering American security with shoddy workmanship or ill-planned missions, the black budget makes it nearly impossible to allocate limited defense resources. In recent months members of Congress have submitted legislation and argued privately to force the Pentagon to divulge more information about the black budget. But there remains a real danger that huge black projects will crowd out funds for the mundane items like boots, bullets and training. And if Congress ever does turn the budget knife on the Pentagon, how can it cut wisely what it can't see?

"What we see in three to four years is a train wreck coming," said Gordon Adams of the Defense Budget Project in Washington. The crash he envisions: tens of billions of dollars in black weapons projects rushing headlong in one direction, while tens of billions in budget cuts are coming the other way. "The consequences of that train wreck for national security are enormous," Adams said. "What piece of flesh do we cut? Do we mothball part of the Navy? Cut personnel? We will have to make those choices, and all for a black budget we know nothing about."

The likelihood of that crash is growing. Under the Reagan administration black budget research and development costs have jumped from $626 million in 1981 to $9.12 billion in this year's request. That's a number to watch. Secret Pentagon R & D has grown faster than any other sector of Pentagon spending. This foreshadows huge increases in the black budget for the 1990s, since, after all, research and development is the acorn from which the defense oak grows. Without congressional action the problem is destined to get much worse. ■

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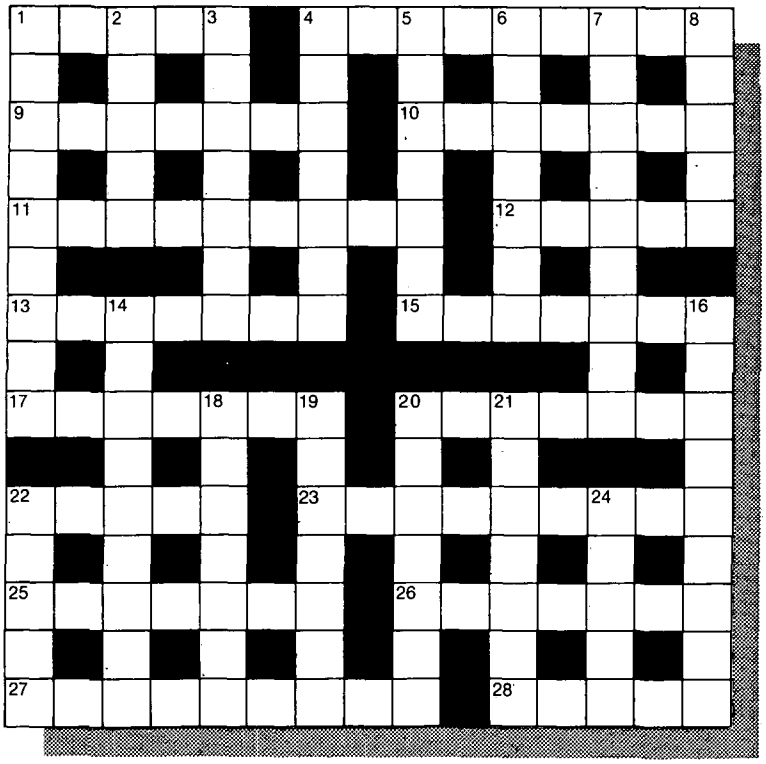
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g., (2, 3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.



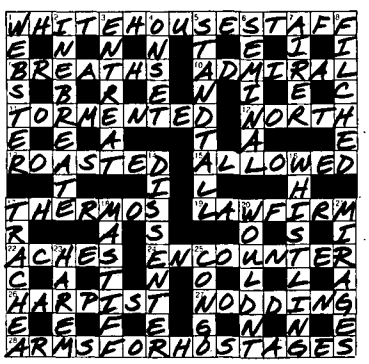
ACROSS

1. Crime revolves around 500 tapestries. (5)
4. Athlete's hurdle gets trustee in trouble. (5, 4)
9. Snapshot provides trip cue. (7)
10. Auction figure tosses ropes around middle of cattle. (7)
11. Met personage tossing a rope, before sandwich. (5, 4)
12. Painting 999 years old. (5)
13. Speak to disorganized, sad reds. (7)
15. He did not live to see his mummy. (4, 3)
17. One with supernatural powers takes in South African group for another. (7)
20. Mixed beer led out of valve. (7)
22. Fashionable portion heard over all. (2, 3)
23. The ultimate economy class travelers? (9)
25. Echo is confused around the end at Frenchman's home in general. (4, 3)
26. Arranged auto loan without you in Pennsylvania. (7)
27. 99 contras involved with 1 across. (9)
28. Faulty joke? (5)

DOWN

1. Idol stamp created for international figures. (9)
2. With an addition relative gets dirty. (5)
3. Herb in this county makes meat dish. (7)
4. Unnecessary for the French in employments. (7)
5. Not working, normally pawned around 1st of September. (2, 5)
6. Muffled noise or continuing loss. (7)
7. Drew out revision of cedar text. (9)
8. Crowd, we are told, produced from ether. (5)
14. Approaches by myopic artist? (5, 4)
16. Gives up when cab's trunk is ransacked. (5, 4)
18. Wakes up when itemized bill is totalled? (5, 2)
19. Composer finds mixed sins in French king. (7)
20. Rag snob manufactured shoes. (7)
21. Castile solution is flexible. (7)
22. Well-preserved native American? (5)
24. Expressing welcome or good-bye in Buffalo haunts. (5)

Answers to last month's puzzle:



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Everyone knows women are beaten.
Why won't the law do anything about it?

BATTERED JUSTICE

by Joan Meier

Last August in Somerville, Massachusetts, Pamela Nigro-Dunn was coming home from work and got off the bus at the stop where her mother met her each day. A man drove up and insisted Nigro-Dunn get into his car. When she and her mother resisted, he threw mace into her mother's face. Then he shot Pamela, who was five months pregnant, in the abdomen and dragged her into the car. Her body was found in a garbage dump nine hours later. She had been shot, strangled, and stabbed. The murderer was arrested three months later in Florida. He was her husband.

Roughly 1,350 women were killed by their spouses, ex-spouses, or boyfriends in 1985. They were the victims of the most extreme form of wife battering but represent only a fraction of those who have suffered from what appears to be an epidemic of violence within marriages. National surveys have suggested that as many as one out of four married couples endure at least one act of serious violence during their marriage.

This domestic violence is one-sided: 85-95 percent of assault victims and two-thirds of domestic murder victims are women. And it usually is not an isolated event but part of a pattern of escalating violence. Where there has been murder, there has usually been a history of beating. Consequently, many killings were predictable and could have been stopped. In most cases, the victims had brought their abusers' earlier assaults to the attention of the police, prosecutors, or courts. Pamela Nigro-Dunn had been to court four times trying to stop her husband's attacks before she was murdered. She received a restraining order, but the judge refused to give her police protection. Similarly, the murder of Leedonyell Williams in Washington, D.C., this past summer was committed the day after charges against her attacker were dropped. One Minneapolis study found that in 85 percent of spousal murder cases there had been prior contact with the police; in 50 percent they had been called at least five times in the preceding two years.

Many people are aware that wife-beating is a problem. But few are aware of the shocking way that violence is ignored by the criminal justice system. When called for help, police rarely make arrests. When they do, prosecutors rarely bring charges. And when cases are brought to court, judges too often have the attitude of Paul Heffernan, the Massachusetts judge who was sitting on the bench when Pamela Nigro-Dunn requested help.

In the first affidavit Pamela filed, just six weeks after her wedding, she stated, "I'm a prisoner in my apartment. He locks me in and takes the phone cord out. He choked me and threatened to kill me if I try to leave. He made me work only where he works.... My life is in danger so long as he is around."

Pamela asked Heffernan to order Paul Dunn out of the apartment, but the judge refused and then asked her, "Did he demonstrate this type of behavior before you married him?" presumably reasoning that, if the husband had hit her before they were married, she was not entitled to police protection if she was beaten—however badly—after she was married. Pamela moved out.

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Five days later, she returned to court to obtain a police escort so she could return to the apartment for her clothes. "I don't think it's the role of this Court to decide down to each piece of underwear who owns what," Heffernan said. "This is pretty trivial.... This court has a lot more serious matters to contend with. We're doing a terrible disservice to the taxpayers here." Heffernan then turned to her husband and said, "You want to gnaw on her and she on you fine, but let's not do it at the taxpayers' expense."

Pamela moved in with her parents, but after pressure from Paul to return and promises that he'd reform, she reconciled with him for several weeks. The abuse resumed. She didn't go back to court to seek further protection. Why would she? She moved back to her parents', and her mother began accompanying her to and from the busstop because they had seen Paul circling in his car. Shortly thereafter he murdered her.

It is appalling that so many women suffer as Pamela did at the hands of their spouses. But it is perhaps even more appalling that so many are further abused by the criminal justice system. Although in recent years several cities have moved toward reform, domestic violence remains at best a low priority. There are many reasons for the reluctance of police, prosecutors, and judges to handle these cases, but at the root is the belief that wife-beating is simply not criminal behavior.

Police who won't arrest

The passivity of police in dealing with domestic assaults was made clear in a landmark case in New York City in 1976. Twelve battered wives sued the city police department and family court for failing to arrest and prosecute men who attacked their wives—simply because the victim and assailant were married. The out-of-court settlement required the police department to change its policies and was hailed as a turning point in the country's police and court treatment of domestic violence cases.

But in the four years I have represented battered women in Chicago and Washington, D.C., it has become clear that little has changed since the New York case. Catherine Klein, who has worked with about five hundred battered women over the past five years, cannot recall a single arrest that happened without her intervention. Early last year, for example, the D.C. police were called by nurses at a hospital where Dawn Ronan*, who was five months pregnant, had gone for treatment after being kicked in the back by Jimmy Smith, her boyfriend and the father of her child. The police refused to arrest Jimmy because they hadn't seen the assault. "It's a domestic problem. We really don't get involved," they explained to the nurse.

Fearing what might happen if she continued to live with Jimmy, Dawn moved in with his sister. About two weeks after the baby was born he found her there and attacked her in her bed, splitting her cheek open with a belt buckle, and cutting her eye with the heavy ring he wore. When his sister tried to stop him, he threw her against a dresser. The police, called in from the street by the sister, again refused to arrest because they had not "seen" the assault, even though there was a witness. Instead, they simply advised Dawn to go to the hospital for her bleeding cheek and eye.

Similarly, in December 1985, D.C. police were called to the home of Barbara Nelson after her husband, who no longer lived there, broke into the house, brandishing a razor and yelling, "I'm going to kill you and that nigger in the basement." There was no other man in the house. When Nelson asked the police to arrest him, they refused. When later asked why, one officer responded that Barbara had seemed more excited and hysterical than her husband.

This reluctance to arrest is corroborated by studies conducted in the late seventies in Colorado and California that showed only 5 to 6 percent of domestic violence complaints to the police resulted in arrest.

Why don't police arrest these abusers? Some states have historically prohibited arrests on misdemeanor—though not felony—charges unless the police have witnessed the crime. Many states, however, have changed the law so police can make misdemeanor arrests in domestic violence cases without having seen the assault if there is sufficient evidence of probable cause. In D.C., police concede they have always been authorized to make arrests for misdemeanors they didn't witness. They simply don't—sometimes not even when they can see blood streaming down a woman's face.

The legal excuses often give way to the real reasons for not arresting. "They always said they couldn't do anything because he was my husband," recalls Jean Cook, whose husband had, on various occasions, thrown a brick through her window, broken a beer bottle over her head, threatened to kill her, and lurked with a gun around the shelter where she was staying. Barbara Nelson was advised by a supportive police officer to tell the dispatcher there was "a man

Some of the victims' names have been changed.

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A policeman who had been called to a scene where a man had stabbed his wife with a knife, said to the husband, "Maybe if I beat my wife, she'd act right, too."

with a knife" when she called for help, rather than say "my husband has a knife." Last January, another D.C. woman was on the floor being kicked by her boyfriend when the police arrived. The police told the man that if the couple had lived together at least six months, making them common law husband and wife, they couldn't do anything. The police then asked how long the two had lived together. The man said six months; she denies they had ever lived together. The police left. Yet another recent D.C. victim, who had been held hostage all of one night and hit repeatedly in the head with a hammer, was told by the police, "he'd have to kill you or damn near kill you" for them to take any action.

The hands-off approach that still operates in most police departments gained theoretical justification in the early seventies when social work alternatives to punishment were popular for a number of offenses, including drug use and prostitution. In 1970, Morton Bard, a clinical psychologist, set up a demonstration project to teach police special counseling skills for intervening in family disputes. Even though the project did not show a reduction in violence, it was hailed as a success. Other well-intended psychologists followed suit. By 1977, a national survey of the larger police departments found that more than 70 percent had implemented some kind of family crisis intervention training program.

At best, such policies help the victim. Police should usually be applauded for their efforts to be more humane, but it is curious, given their occupational bias toward punishing offenders, that they eagerly embrace a soft approach towards domestic violence. Unfortunately, experts in domestic violence now agree that mediation as a substitute for arrest is the wrong answer when there is violence.

D.C. police officers typically say they are reluctant to arrest wife-beaters because these "fights"—a term reflecting a belief that spousal violence is minor and mutual—"are much more dangerous for police." They also reason that, as one said, "when people are in a relationship, I assume she could leave and avoid the man if she wanted to."

Both reasons contain a kernel of truth. That police fear domestic violence cases is understandable, although it contrasts strikingly with their notion that such cases are trivial and not very dangerous for the women. When police respond to a domestic call, tempers are usually still hot, and often get hotter at the sight of a cop. One 1983 study by the D.C. Metropolitan Police Department stated that "nationally, more police officers were injured while responding to disturbance calls than in any other type of call for service." But recent FBI Uniform Crime Reports show that police fears are overstated and that a domestic call is one of the least likely of all calls to lead to assaults on officers or to their deaths. Similarly, Don Pfouts, a detective with the Baltimore City Police Department who has been reviewing his department's records, confirms that domestic calls are "not that dangerous."

Nowhere to hide

Underlying police reluctance to arrest is the feeling that domestic violence is not a real crime. The perception, shared by many people, is that women in some way consent to the violence by being in a relationship with the man. To put it crudely: "If she doesn't take it seriously enough to stay away, why should society take it seriously enough to arrest the man?"

But the assumption that women have control over the situation is mistaken. It can be almost impossible for a woman to relocate, especially when she has children to care for or when she has no independent income. More important, many women don't leave their spouses for fear that the violence will get worse. Angela Browne, a social psychologist at the University of New Hampshire, says, "Some women who have left an abusive partner have been followed and harrassed for months and even years; some have been killed." Jean Cook left her husband only to begin seven months of moving from shelter to shelter

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in an attempt to hide from him. He always found her. From restaurant to shelter, from shelter to work, to and from church, wherever she went, he tracked and harassed her. Twice, when she sought court protection he assaulted her the next day. Cook was not truly free of her husband's terrorizing until he was finally put in jail and she left the state.

In her many attempts to get away from her abuser, Dawn Ronan went to her parents', a shelter with a supposedly secret address, and the house of a shelter counselor. Jimmy Smith tracked her down each time. On the last occasion, he forced her into the car, held a knife to her neck, then thrust her head out the car window and choked her.

The legal system also makes it impossible for women to avoid their batterers when it enforces the man's "rights." Even if Dawn could somehow escape Jimmy, she would still have to be in contact with him by order of the court since he has been awarded visitation rights with their baby. Many judges appear to share the opinion of Massachusetts Judge Tempone, who said, in refusing a woman's plea to deny her batterer visitation rights, "Even Dillinger could have made a good father.... How about Manson?"

While misperceptions about women's ability to

WIFE-BEATING AND THE RIGHTS OF MEN

Underlying the reluctance of the criminal justice system to intervene in spouse-battering cases is a widely held belief in the longstanding legal doctrine of "family privacy." That doctrine was given its most eloquent expression by an 1868 North Carolina court that ruled in *State v. Rhodes*: "However great are the evils of ill temper, quarrels, and even personal conflicts inflicting only temporary pain, they are not comparable with the evils which would result from raising the curtain and exposing to public curiosity and criticism the nursery and the bed chamber."

It is true that we accept sorts of family physical contact that we wouldn't allow strangers: parents can spank their kids but strangers are forbidden to touch other people's children. If siblings or friends get into a fight we do not automatically view it as a "crime." Rather than ask the state to settle family disputes, we expect and prefer that people settle such problems themselves. Some research indicates that the police non-enforcement policy toward domestic violence is not limited to spousal violence but extends to other incidents where the parties know each other, such as barroom brawls.

But wife-beating is different from other forms of family violence. It follows a pattern of violence that increases in intensity over time, and is one-sided. It is also the residue of a long historical tradition whereby laws pertaining to violence in the family not only permitted this one-sidedness, but approved of it.

Our gruesome heritage goes back at least to 1800 B.C., when the Hammurabi Code officially decreed the wife was subservient to her husband, who as head of the household, had the right to inflict punishment on any member of the household for any transgression. The Roman Code of Paterfamilias elaborated: "If you should take your wife in adultery, you may with impunity put her to death without a trial, but if you should commit adultery or indecency, she must not presume to lay a finger on you, nor does the law allow it." The Code further permitted men to physically punish their wives for such activities as walking outside with their faces uncovered or attending public games without their husbands' permission.

Canon law and religious doctrines were similar. St. Augustine noted the wisdom of his mother's subservience to his father: "Many women, whose faces were disfigured by blows from husbands far sweeter tempered than her own...knew well enough how hot tempered a husband my mother had to cope with." Around 1140 A.D., the church codified its rules, stating that a wife is obliged to submit to the punishment of her husband. Even the saintly Sir Thomas More described the Puritan ideal in his *Utopia*, where "the husbands chastise their wives."

In medieval Europe, feudal law made wives their husbands' chattel, with wifely disobedience enforced by community punishments such as iron muzzles with spikes that depressed the tongue. European lawmakers in the 17th and 18th centuries attempted to move beyond these traditions. One French ordinance restricted the chastisement of wives and children to "blows, thumps, kicks or punches on the back...which did not leave any marks," but added, "the man who is not master of his wife is not worthy of being a man."

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end the violence may make the reluctance of police to arrest more understandable, their behavior in many instances indicates something far worse: an identification with the male attacker and a lack of sympathy for the woman. In the landmark New York case, a policeman who had been called to a scene where a man had stabbed his wife with a knife, said to the husband, "Maybe if I beat my wife, she'd act right too."

Police sympathies can be more subtly expressed. Jimmy Smith broke into the shelter where Dawn Ronan was staying and attacked several of those who lived there. After three calls, a policeman came but stood outside at least ten minutes before coming in. When he got inside, a shelter worker was holding Jimmy down, but the officer, smiling, addressed Jimmy: "What's up Jimmy, what are you doing in here?" He then asked Jimmy, but not the women, if he was hurt. Then the officer escorted him out of the house and proceeded to smoke a cigarette with him, both of them talking and laughing. The officer stood silent when Jimmy said to Dawn, "I'm going to kill you, if that's the last thing I do." Only when Dawn got angry did the officer finally take action: He insisted that she go inside. He then escorted Jimmy to the hospital, though he had no noticeable injuries.

Another French statute: "All the inhabitants of Villefranche have the right to beat their wives so long as death does not follow."

In 19th-century Britain, some legislators tried to reduce the suffering of women. One speaker in the House of Commons energetically insisted that "the country should treat its married women no worse than it treated its domestic animals." The difficult question of what constituted "moderate castigation" was resolved by devising "the rule of thumb," providing that a man could beat his wife with a stick "no larger around than his thumb."

Just last year, a British judge in the main criminal court at Old Bailey indicated that his country may not have progressed much since that rule. A philosophy student named Nicholas Boyce had strangled his wife, hacked her body into small pieces, and cooked some of them to make them look like leftovers from "a Sunday lunch." The remains were then distributed at various points around London. Boyce testified that his wife had cast slurs on his manhood and provoked him by breaking his pipes. In sentencing him to only six years in jail, the judge noted that Mr. Boyce was devoted to his children and that "a man of reasonable self-control might have been similarly provoked and might have done what [he] did."

The American legal system adopted the husband's right of domestic chastisement. The right to beat was affirmed by a court in Mississippi in 1824. Other states soon followed suit, including North Carolina, which held in the case mentioned above that the state should not interfere in cases of "domestic chastisement" unless "permanent injury or excessive violence" was involved.

In the early 1900s, some American courts began to permit wives to sue their husbands for civil assault. But in many states, including California, Massachusetts, and New York, "spousal immunity" prohibited such suits until the late sixties or early seventies, when states began passing laws giving women the right to obtain orders of protection; yet a handful of states still don't provide even that much relief without a divorce or some other civil action. At last count, 11 states had made spousal violence a specific crime, separate from the general category of assault.

These historical traditions persist on some level in our society. One study showed that bystanders are far less likely to intervene in a physical fight between a man and a woman if they believe they are married or intimate. Witnesses of the infamous killing of Kitty Genovese said they failed to call the police while she screamed because they thought her attacker was her husband. In a recent poll in New Jersey, almost two-thirds of respondents of both sexes said that police should take only non-punitive action, such as giving warnings or cooling things down, rather than arresting men who beat their wives. Marge Jozsa, a director of a shelter for battered women in Chicago, testified in 1984 that many women, after marrying, believe "that [her husband] has the right to be violent. . .the right to beat her if she steps out of line and doesn't follow his wishes. . . [and that] no one will intervene on her behalf."

—J.M.

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There was no subtlety, however, in the response to Tracy Thurmon, who later won a suit against the Torrington, Connecticut, police department. She had successfully prosecuted her husband in 1982 for repeatedly beating her and threatening her and their child's life. Despite a probation order barring him from further harassment, he assaulted her twice and repeatedly threatened and harassed her. The police consistently refused to respond to her calls. In June 1983, Thurman called the police again when her husband came to her house. By the time they arrived, he had already stabbed her in front of the house. While the police watched, her husband dropped the bloody knife, kicked her in the head, went into the house, came back out, dropped her child on her, kicked her in the head again, and walked around the crowd that had gathered to watch. Not until he approached Thurman a third time, as she lay on a stretcher, did the police arrest him. Thurman said the police frequented the restaurant where her husband worked and that he had boasted to them that he intended to kill her.

Prosecutors who won't prosecute

The most understandable reason police give for their reluctance to arrest is their belief that such cases are not likely to be prosecuted. When Michael Anthony Scott broke into the Washington, D.C. apartment of Leedonyell Williams, his former girlfriend and the mother of his two children, he held a gun to her head and sat waiting at the dining room table for her mother to come home. When she arrived, he said, he would shoot both of them and himself. Eventually he got restless and left, taking his two-year-old son and warning Leedonyell not to tell anyone what had happened or he would kill the baby.

But Leedonyell did tell the police. Because there was a bench warrant out on him already for failure to appear in a traffic case, they arrested Scott. The prosecutor's office decided to drop Leedonyell's charges. The reason? One prosecutor later explained, "It appeared to be a domestic dispute over child custody." The next day Scott shot and killed Leedonyell on the stairs of her apartment. After hearing of the murder, another prosecutor said, "It's just one of those horrible, bizarre things.... You deal with a thousand of these kinds of cases and 999 of them turn out as you expect them to: just a domestic problem."

Prosecutors in many jurisdictions are known to avoid prosecuting domestic cases. In some offices special "cooling off" periods are imposed in the expectation that the woman will change her mind. In the rare case where a prosecutor presses charges, it is almost always as a misdemeanor rather than a felony, regardless of the severity of the assault.

Standards for when to prosecute are, if anything, more vague and discretionary than police standards for arrest. When pressed for his reasons for dropping the charges in the Williams case, Joseph DiGenova, the U.S. attorney for the District of Columbia, said he was "satisfied that everything was done properly," and that the decision had been "handled according to guidelines." As to what those guidelines called for, he would say only "a host of factors" such as the arresting officer's "impressions" and prosecutors' "experience."

Most prosecutors will admit that they view domestic assaults differently. They frequently mention that such cases are hard to win. Since domestic assaults usually occur behind closed doors, there are rarely witnesses and when there are, they are usually children. Still, prosecutors often refuse to take a case even when evidence of physical abuse is strong. Denise Wiktor, a D.C. attorney, recalls on one occasion presenting a U.S. attorney with bloody clothes, two eyewitnesses, and three affidavits as corroborating evidence. The attorney still refused to prosecute, citing "insufficient evidence."

Prosecutors most often attribute the failure to prosecute to the woman's ambivalence about pressing her complaint. "These are very, very difficult decisions to make because of the regularity with which the complainant refuses to go forward," DiGenova told *The Washington Post*. In some studies, as many as 80 percent of complaints were dropped by the complainant before prosecution. Even battered women advocates agree that this ambivalence can be a problem. If a woman does drop charges, prosecutors frequently treat a second complaint as "crying wolf" and refuse to process it.

Why do the victims drop charges? Some women blame themselves, believing the batterers when they say they had it coming. "It'll never happen again, it was my fault," is a common refrain heard by Vicky Vossen, an assistant district attorney in Manhattan. Frequently a batterer goes through a period of contrition after an attack, pleading with the woman to stay and promising never to hurt her again. If she cares for the man at all, it is difficult to reject his pleas and promises, and particularly difficult to send

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While the police watched, her husband dropped the bloody knife, kicked her in the head, went into the house, came back out, dropped her child on her, kicked her in the head again, and walked around the crowd that had gathered to watch. Not until he approached her a third time, as she lay on a stretcher, did the police arrest him.

him to jail.

More importantly, women drop charges for the same reason they don't leave their abusers: fear. It is not uncommon for abusers to sit in the courtroom and intimidate a woman into dropping the charges. Vernon Nelson, while in court, told his wife that if she got him ordered out of the house, he would burn it down. Barbara Nelson withdrew her request.

According to Lisa Lerman, an attorney and noted author in the field, prosecutors often hide behind complainants' ambivalence. One city prosecutor in a recent National Institute of Justice report stated, "We'd file if she really wanted us to, but we knew that she'd want us to drop charges later...we may have even told her so. Then we sent her back home, often back to her abuser, without any support or protection at all. Sure enough, she wouldn't follow through and we'd think: 'It's always the same with these cases.' "

The self-fulfilling prophecy can be taken to extremes. After the police arrested Leedonyell Williams's assailant, Michael Scott, neither the victim nor her mother was told when the attorneys would review the case to decide whether to charge Scott, nor were they told that they should be present. Yet, as is common practice, the prosecutor decided to drop the charges, in large part because Williams did not show up.

The truth is, if prosecutors want these cases to go forward, they usually will. "The probability of victim cooperation is in fact better predicted by the conduct of the prosecutor than by the conduct of either the victim or the defendant," says Lerman. In San Francisco, where a "victims advocates" program gives battered women legal and moral support, 70 percent fewer of their complaints are dropped. In Seattle, Santa Barbara, and Los Angeles, prosecutors refuse to allow victims to drop charges after they are filed. Complainants are then largely protected from their abusers' intimidation. Although some battered women's advocates worry that taking the decision out of the woman's hands is merely "re-victimizing" her, at least one prosecutor says, "I have seen relief on a woman's face...when I have said, 'I am sorry, I am not waiving [dropping charges].' " In Los Angeles, the result in most cases has been that defendants plead guilty.

But offices such as Los Angeles's are the exception. In most offices, domestic assault cases are simply not considered desirable or important. Chicago's domestic violence court, for instance, now ranks with the traffic court as the training ground for new judges. The low priority these cases are given within a department sends clear signals to the young prosecutor looking to move up the ranks: If they want to catch the attention of their bosses they need high win rates and "glory cases." "You don't get promotion for prosecuting domestic violence cases," says Ora Schub, an attorney for disabled and battered women. And, she adds, "there are no consequences for screwing up these cases. We reported some really outrageous stuff, and even though the prosecutor's supervisor was supportive of our complaint, nothing even went down on the prosecutor's record."

Judges who won't convict

Prosecutors' attitudes are shaped in part by those of the judges before whom they appear. In August 1983, I was an advocate in Chicago for a battered woman who wanted her abuser prosecuted for assault and an order of protection issued barring him from harassing her again. On the day of the trial the defendant agreed to one year of court-supervised counseling and a one-year order of protection. The agreement had to be approved by the judge to be enforceable. Approval of out-of-court settlements is usually little more than a formality. But not in this case.

State's Attorney Michael Balksus: We would like to stress the seriousness of the crime to the defendant, and make sure that he is well aware that under the Order of Protection he cannot

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threaten or harass the complainant or have any sort of physical contact with her in any unlawful manner....

Judge William Wood: This is a husband and wife situation?

Balksus: That is correct.

Wood: I assume they are not living together?

Public defender: They are living in the same house.

Advocate for Complainant, Joan Meier: Your honor, may I interrupt to fill in some details? The complaining witness has filed for divorce. They are living in the house together, not happily. He has threatened to kill her several times, particularly if she brings him into court. And that is why we would like a warning about threats. We do not want him threatening to kill her.

Wood: If people live together, how do you control human behavior?

Meier: It is a problem.

Wood: It certainly is a problem. Now if she's going to live with him for whatever reasons and then is going to ask the Court to tell him not to hit me [sic] this is ridiculous and stupid.

Meier: She would be happy to ask the Court for him to leave, but she understands there is an agreement being made. There is something short of that that could resolve the situation.

Wood: I'm going to give him supervision as long as they are living together. I'm not going to enter any order like this. This is just my view. And I see you have a surprised look, but I think it is ridiculous to have people living together and then you're going to have the court say, don't do this.

Meier: Your Honor—

Wood: And I would say go to divorce court; this is a criminal court.

Meier: Your Honor—

Wood: This is a criminal court, do you understand? Go to divorce court. Let them put an injunction against him. Let them look into the domestic matters. But I'm not going to take up time with this.

Meier: The law permits you to and suggests that you should.

Wood: Okay, and after having heard it and considered everything this is my considered judgment: one year social service supervision, August 23. That's it; and take that back with you.

Clerk: Order of Protection?

Wood: Order of Protection is denied.

The tragic irony of this case was that Pat White wanted nothing more than to have her husband out of the house. She had not requested that much relief for fear the judge might refuse, making her husband think he had license to beat her.

Judge Wood's view is not unique. According to Assistant D.A. Vicky Vossen, several judges in Manhattan frequently refuse to grant orders of protection when the parties have been seeing each other.

This refusal to treat violence as criminal as long as the woman is still in contact with the man is a strange way to apply the law. Nowhere is it written that behavior can be criminal only if the victim has done everything possible to avoid her attacker. We do not let a savage mugger go because his victim unwisely walked down a dark alley late at night. We do not expect someone who is attacked by a burglar in his own home to crawl out the back window. Yet violence against a woman in her own home is not considered a crime because she stays in the house.

Judge Wood's suggestion that the case be dealt with in domestic relations court is also ironic in light of the refrain frequently heard by battered women from civil court judges, such as the Somerville, Massachusetts, district court judge, who said, "Hey, sister, if things are that tough, file a criminal complaint."

Judges sometimes claim that they dislike domestic assault cases because orders of protection, central to most domestic violence cases in both civil and criminal courts, are ineffective. Francis G. Poitrast, the chief justice of the Somerville juvenile court, told *The Boston Globe* that judges are frustrated with "abuse cases" because the orders are just "an empty shell. Its only enforcement is in the event of a violation." But judges rarely express reluctance to convict a repeat burglar merely because jail does not deter recidivists from resuming their crimes.

Simply put, many judges are hostile to these cases, and, it appears, to the victims. According to Eileen McNamara, author of the *Globe* series that broke the Pamela Nigro-Dunn story, Judge Heffernan's behavior was not an isolated or extreme example. Presiding Judge Henry Tempone is even worse than Heffernan, she says. For example, he told one woman, "You don't look beat up to me." She was wearing a full-length coat. He also told the *Globe* that he believed that most women seeking orders of protection were lying. Judges's attitudes towards these cases may be symptomatic of a larger problem. Investigations in New York, New Jersey, and Rhode Island, and other states have found widespread patterns of judicial insensitivity to women, including stereotyping, treatment of women as property, as well as a tendency to "blame the victim" in domestic violence cases. Nor is the problem limited to male judges. Although some women

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judges are among the best on domestic violence issues, others are known for their impatience and hostility.

Unfortunately, the judiciary is for the most part invulnerable to reform, as strong peer review and discipline is rare, and judges, particularly those with life tenure, are effectively accountable to no one. The problem is worse in domestic violence cases, since the one avenue that serves as a modest constraint, appeal, is rarely taken. The prosecution cannot appeal an acquittal of an abuser in a criminal case. Although appeal is possible for protection orders, in most cases it is simply impractical. Petitioners often need emergency relief, making a time consuming appeal of little use. And since most petitioners have no attorney, they don't know how to file an appeal anyway.

The failure of judicial self-regulation was particularly evident in the case of one judge in Massachusetts who was found in the course of divorce proceedings to have severely beaten his wife at least three times. Yet he continued to preside over domestic violence cases for two more years before retiring with an unblemished record.

Violence is violence

Slowly, things are changing. When Jean Cook now says, "I didn't give up all my rights when I got married," she has the support of at least two federal courts. In ruling that the Torrington police department violated Tracy Thurman's civil rights, the federal district court firmly stated that a "man is not allowed to physically abuse or endanger a woman merely because he is her husband" and it held that the police cannot avoid making arrests "simply because the assaulter and his victim are married to each other." The jury awarded Thurman $2.3 million. Suits like Thurman's have been brought against police departments in numerous other cities and states, including New York, San Francisco, Los Angeles, Dallas, Tennessee, Pennsylvania, Alaska, and Ohio. All have been won or settled on terms favorable to the plaintiffs, and have required police to stop discriminating against married women or girlfriends who ask for help. Other police departments, including D.C.'s, are beginning to adopt policies that favor arrests or require that domestic violence cases be treated no differently from other assault cases. When Denver recently adopted a pro-arrest policy, arrests jumped 60 percent one year and 46 percent the next.

Recently, the Attorney General's Task Force on Domestic Violence, the Bureau of Justice Statistics, and the National Institute of Justice produced reports urging that domestic violence be treated as a serious crime. Justice Department funding, although far lower than in the past, now supports eight demonstration projects to develop new policies and procedures for police and prosecutors.

A firm criminal justice response works. After Duluth, Minnesota, instituted a mandatory arrest program, 70 of a group of 86 women reported at the end of two years that the combined assistance of police, courts, and shelters was helpful in ending their abusers' violence. According to Dr. Anne Ganley, a psychologist and counselor for batterers, "Perpetrators tend to minimize and deny the violence and place the blame on others." Therefore, she says, it is crucial that batterers be held responsible for their violence. As one former abuser said in the National Institute of Justice report: "It was such an extreme experience having actually been arrested and dealt with rather harshly...that I sought help." Advocates frequently comment that even the slightest acknowledgment from an official that women do not deserve to be beaten can give victims an enormous boost of strength and energy to take action to end the abuse. Even if the couple stays together, outside disapproval can make both aware that the man does not have "the right to beat" the woman. Barbara Nelson's husband, who was finally arrested and jailed after ten years of violence now says, "There's nothing I want to do enough to go back there.... You don't have to be afraid of me; it's not worth it to go back."

If the message is clear, the actual punishment is less important. A study of the Minneapolis Police Department by the Police Foundation concluded that when the officer "advised" the suspect and did not lock him up, violence recurred within the next six months in 37 percent of the cases; when the suspect was arrested, even if he wasn't prosecuted later, violence recurred in only 19 percent of the cases. In Jean Cook's case, a mere warning letter from her attorney to her abuser brought a sudden halt to seven months of almost daily harassment.

Even if the evidence weren't as clear as it is that criminal justice intervention reduces domestic violence, it would still be called for. Society punishes behavior it finds morally opprobrious. The refusal of the police and courts to insist that domestic violence is a crime allows people to go on believing it's not so bad. It's time to teach a different set of lessons. ■

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MEMO OF THE MONTH

Interoffice Memorandum

Merrill Lynch

To: All ML EMPLOYEES
At:

From: Nicholas Konatsotis
At: Health & Nutrition Services
Tel: 637-5217
Date: March 11, 1987

Subject: SHOE SHINE AND SHOE REPAIRS

Effective March 10, 1987 the shoe shine personnel will have beepers. Please note the following beeper numbers and locations available to you for speedy service.

Beeper #	WFC	OLP
616-5225	20 thru 23	42 Thru 45
616-6534	7, 8, & 15	
616-6539	4, 9 Thru 12, 14, 16, 18, & 19	
616-6554		5 Thru 19 & 26 Thru 34
616-6562	5 & 6	20 & 21

If you do not receive a response from your call, please call Jose Morales, president of Argent Executive Polish, Inc., at beeper number: 205-5268.

Please note that these locations are on a temporary basis until World Financial North Tower Building D has completed its moves. Then in a few weeks a card will be distributed with beeper numbers and permanent locations.

Thank You.

Sincerely,

Nicholas Konatsotis
Assistant, Vice President
Health & Nutrition Services

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Photo: Cecil Stoughton

THE KENNEDY HUSTLE

by Charles Peters

Doris Kearns Goodwin's recent book about the Kennedys* illuminates the family legend with new fact and fresh insight, and it is a marvelous read. I would be astounded if it fails to win the Pulitzer Prize for biography.

That being said, I have two problems—one minor, the other major.

The minor one involves the minor inaccuracies. Having been seduced by the opening pages, I was a benign reader of the remainder of the book, definitely not looking for errors. So I can't help suspecting that the four I noticed are the tip of an iceberg.

"The most celebrated architect in Palm Beach" was not Harry but Addison Mizner. The Battle of Britain began not on September 7, 1940 but a month earlier. The Homestead is in Hot Springs, Virginia, not Arkansas. FDR's victory over Willkie in 1940 was not by "a narrow margin." Roosevelt's popular vote exceeded Willkie's by five million. He led in electoral votes 449 to 82.

The book's major flaw is its failure to understand the Kennedy hustle and its significance for the country, although to Goodwin's credit I must concede she lays out much of the evidence needed to arrive at this understanding.

The Kennedys have been America's royal family in the second half of this century, even more than the Roosevelts had been in the first half. They have been emulated, either consciously or unconsciously, by millions of their countrymen. And their influence continues to this day.

The Kennedy hustle was the way they acquired that influence. It was a manipulative approach to the media and the public, based on exploitation of the financial and social insecurities of the rest of us.

Joseph Kennedy discovered what the press could do when he was 28 and the Hearst papers ran a feature story that billed him as "the youngest bank president." Suddenly he was known not just in Boston but all around the country. Kennedy learned the lesson of this experience well enough so that in 1923 he seized an opportunity to win the eternal gratitude of Walter Hovey, the editor of the *Boston American*, by salvaging Hovey's life savings from an investment that was threatened with disaster. For the rest of his days, Kennedy sought to manipulate the press, serving as puppeteer for, among others, Arthur Krock, a dominant figure at *The New York Times* for more than 30 years.

In 1952 Kennedy learned that John Fox, the publisher of the *Boston Post*, was preparing to endorse Henry Cabot Lodge, who was running for the Senate against John F. Kennedy. Fox happened to be in deep financial trouble at the time. Joseph Kennedy immediately loaned him $500,000. The *Post* endorsed John F. Kennedy,

Charles Peters is editor-in-chief of The Washington Monthly.

*The Fitzgeralds and the Kennedys. *Doris Kearns Goodwin. Simon & Schuster, $22.95.*

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who now knew the lesson himself and proceeded to apply it with skill and subtlety the rest of his life. His main targets were the publishers and editors of the large newspapers and of the most powerful magazines of the fifties and early sixties —*Life*, *Look*, *Time*, and *Newsweek*. He spent his last weekend with Benjamin C. Bradlee.

John Kennedy was attracted to Bradlee not only because of Bradlee's role in the media—he was the Washington bureau chief for *Newsweek*—but because Bradlee's social credentials were edged in gilt. A central fact about the Kennedys is that they were both the exploiters and the victims of snobbery. They could con others by inviting them to Hyannis or Hickory Hill, but they were equally connable by an invitation from Lady Astor. This may explain why the British, themselves no slouches at this sort of hustle, may have selected the elegant David Ormsby-Gore (later Lord Harlech) to be their ambassador to the New Frontier. At any rate, Ormsby-Gore quickly established himself as John Kennedy's favorite diplomat and was a frequent White House guest.

Victims of the cruel prejudice of Boston's WASPs, the Irish Catholic Kennedys had had to survive one obvious snub after another. It was bad enough to cause Joseph Kennedy to move his family from Boston to New York—and to fuel his desire to make it socially.

Kennedy became adept at climbing the ladder. He impressed Hollywood producers by getting them invited to lecture at Harvard Business School. He impressed Palm Beach society by arranging the appearance at a benefit ball of the reigning film queen, Gloria Swanson, who also happened to be his mistress. He impressed every Irishman in America by gaining social acceptance from the British elite while he was ambassador to the Court of St. James. The Irish, after all, had been spat upon by the Brits for centuries.

Most of all, he sought acceptance for his children. Goodwin observes, with a perceptiveness that shows what she might have accomplished had she pursued this theme more diligently:

"Having scrambled for his wealth, Kennedy wanted his children to start life on the heights. Freeing them from material concerns, he hoped to instill in them that natural confidence possible only to people who never had cause to doubt their social position. With three mansions and a retinue of servants and cooks, he hoped to create in his children that aristocratic ease of manner that he had first observed among the Brahmin students at Harvard when he was a freshman."

It almost worked, but not quite. The children still felt a need to rise higher. Joe Jr. wrote: "I met the daughter of the Duke of Alba, and under Spanish law I would become the Duke if I married her, so I am toying with the idea. Wouldn't you like to have a Duke in the family?"

Joe Jr. may have been half-joking, but the fact is that Kathleen did marry the Marquess of Hartington who, had he not been killed in World War II, would have become the Duke of Devonshire. "I'll have," she wrote, "a castle in Ireland, one in Scotland, one in Yorkshire, and one in Sussex."

As for John Kennedy's motivation in marrying Jacqueline Bouvier, his closest friend, Lem Billings, said:

"I knew right away that Jackie was different from all the other girls Jack had been dating. She was more intelligent, more literary, more substantial. And her mother's second marriage to Hugh Auchincloss carried the family into the social register, which gave Jackie a certain classiness that's hard to describe."

The Kennedys understood upward mobility because they were upwardly mobile themselves. The famous campaign "teas" were consciously designed to appeal to the social aspirations of the women who attended. Similar aspirations were behind the public's use of the Kennedys as behavior models. By the early sixties, men stopped wearing hats because Jack didn't wear one and women were having their hair done like Jackie's and buying clothes that imitated her designer dresses. They found out what was the right thing to do by watching the first family. As Richard J. Whalen observed, "Everyone wanted to be in high society with the Kennedys."

The family's influence began to decline after Jackie married Onassis and Teddy left Mary Jo Kopechne in that car at Chappaquidick. But by that time they had much of the country preoccupied with finding out "the right thing to do." There had been an explosion of city magazines—*New York*, *Philadelphia*, the *Washingtonian*. In the sixties, they were cropping up everywhere, full of articles and features designed to let the reader in on what was chic. At one of the more recent manifestations of this kind of journalism, *Manhattan Inc.*, the staff now is torn by a controversy over whether red suspenders are in or out.

The Kennedys had been the spiritual leaders of a nation whose tastes were moving from "I Love Lucy" and "The Honeymooners" to "Dallas," "Dynasty," and "Lifestyles of the Rich and Famous"—or, at a somewhat more refined,

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Jacqueline Bouvier level—to "Upstairs, Downstairs" and knowing the right paintings to hang on our walls.

The other day I saw a woman's resume. It listed the schools her *children* were attending. Why? Because they were Harvard and Brown. We had Harry Truman when the fifties began. Now we have Nancy Reagan and Betsy Bloomingdale, not to mention Jerry Zipkin. The Kennedys hustled the entire nation. Upward mobility is now the only game in town.

What makes one weep is that there is another side to the Kennedy legacy, a side that could be our salvation.

The problem with the upwardly mobile today is that, like the Reagans, they never stop to look down or to give a helping hand to those who are still groping for the first rung of the ladder. Even at their absolute worst, this was never true of John, Robert, and Edward Kennedy, nor of Sargent and Eunice Shriver. However much they may have lusted for association with celebrities, they have been consistent in their concern for the down and out.

We need that concern now. We also could use another good quality of the Kennedys—their spirit of service. "Ask not" is the call we need to hear again, and it is a call we should answer with generous hearts, with a willingness to pay higher taxes, to surrender government benefits we don't need, and to give a few years of our lives to service in the armed forces or in organizations like the Peace Corps.

But instead of being inspired by the best side of the Kennedys, we have imitated their worst and become, if not a nation of snobs, a country that is increasingly obsessed with money and status. We have forgotten why snobbery is so insidious. Instead of encouraging us to reach out to find common ground with our fellow man, it excludes people who don't fit the right mold. It is an expression of concern not for real substance but for how we look to the world. It makes us nervous about the things that don't count and thus detracts from the commitment to do the things that will make this world a better place, which is the commitment that should govern our lives. ■

ZEN AND THE ART OF CULTURAL MISAPPROPRIATION

Learning the right lessons of the Japanese schools

by Jonathan Rowe

The Japanese have not had good press with the young people of America. To those born around World War II, they were the little people who snuck through jungles and crashed warplanes into American battleships in movies like *Bataan*.

Kids today have new reason to dislike the Japanese. A school year 60 days longer than our own, for example. Classes on Saturday morning. Mountains of homework. Requirements to sweep the halls after school. As America's Japan envy shifts from that country's factories to its schools, these and other features of Japanese education are being touted as models for our own.

Given the staggering test scores of Japanese students—the *lowest* fifth grade math scores there are higher than the *highest* here—the attraction is understandable, at least for those whose childhoods are safely behind. And Japanese workers are famous for their ability to do complicated math on the shop floor. As Merry White says in her new book,* "We assume the trade war begins with the Japanese kids."

But transplanting institutions from one culture to another is tricky business. A few years ago, the Japanese minister of education visited the United States, and then-Secretary of Education Terrel Bell was playing the expansive host. Bell heaped praises on the Japanese *juku*, private cram schools that students attend in the afternoon after their regular school. These *juku*, Bell proclaimed, symbolized Japan's commitment to learning and should be a model for America. There was a "shocked silence," White recounts. *Juku* are part of the "examination hell" that

Jonathan Rowe is a contributing editor of The Washington Monthly.

**The Japanese Educational Challenge*. Merry White. *The Free Press, $18.95.*

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many Japanese regard as a national embarrassment. Parents and teachers would dearly like to be rid of both.

But like Gramm-Rudman and Nautilus machines, the boot camp aspect of the Japanese schools suits America's shape-up mood of the moment. "Psychologically projective and self-projective," Dr. White calls this view. Nowhere is this more apparent than in the pronouncements of Secretary of Education William Bennett. In an epilogue to his department's recent report, "Japanese Education Today," Bennett portrays the Japanese schools as just more proof of the back-to-basics agenda he's been pushing all along.

To be sure, Bennett has a case. In addition to the long school year and Saturday classes, the Japanese favor a no-frills curriculum with few electives. They forego fancy buildings and administrative legions and use their money to pay teachers a healthy middle-class wage instead. The Japanese see no need for the high-tech paraphernalia upon which our local school districts are lavishing millions. ("Class time is too precious to use machines," a teacher told White.) Perhaps most attractive of all to the right-wing American mind, the Japanese mama stays home and helps little Yoshi do his homework while dad goes out drinking with his office buddies after work.

The trouble is, it would be just as easy to make the Japanese schools sound like a National Education Association plot. There are the healthy salaries, which Bennett mentions guardedly—government spending, after all. The schools are under the control of a central bureaucracy that lays down standards for the entire country (an arrangement, Bennett is quick to note, "we would not want to emulate"). The national government basically pays the bill as well, thus enabling local educators to worry about education instead of property tax levies. The Japanese commitment to the *public* schools is total; vouchers aren't even an issue. And a very strong teachers union keeps watch over the proceedings.

But any effort to fit Japan's schools into Western ideological agendas totally misses the point, White argues. Moreover it's not the grind that makes those schools work. If America extended the school year tomorrow, for example, we'd gain little besides 60 more days of mediocrity. What really counts in Japan, she says, is a culture that says schools and kids are important, and that reinforces the values the schools try to teach.

Typically, Bennett sees these values through a Western lens. "What we sometimes call the 'Protestant ethic' is strong in Japanese education," he writes. "There are clear rewards for success." But the Protestant ethic is almost exactly what those values aren't. The Horatio Alger myth in Japan is fundamentally different from the American version. "The happy ending for the Japanese hero was in no way contingent upon personal reward," White writes. "Harmony in interdependent relationships is both goal and setting for sufficient proof of one's virtue."

Striving in that country has a different meaning, a fundamentally *social* meaning. People like Bennett "want only the elements that would work in a neoconservative society," White said in an interview. "The trouble is, there is a lot of other stuff too. The basics are taught in a context of community."

A faculty member of the Harvard School of Education, White began her study of the Japanese schools some 25 years ago and spent a year there in the mid-seventies, during which her daughter attended a Japanese school. She goes back annually to keep in touch with the families she has followed in her studies. Her book combines a wealth of detail and cultural insight with a parent's feel for how the schools really affect kids.

It will surprise those who have read the proliferating accounts of the Great Grind. The Japanese secondary schools do have problems in that regard. (Secondary schools everywhere have problems in *some* regard.) But at the elementary level, the Japanese appear to have just about perfected the art of turning out happy and inquisitive little kids. Throughout, one finds the spirit of a liberal American educator who had a great influence in Japan before the war and whom conservatives put in the same category as Dr. Spock. "John Dewey lives in Japan, though in a Japanese frame," White says.

Entering an elementary school classroom can be a shocking experience for Americans, White says. We expect to see little learning machines riveted to their seats, soaking up multiplication tables. Instead, the scene verges on the "chaotic." Much work is done in small groups, called *han* (presided over by a *hancho*), in which children thrash out among themselves problems posed by the teacher. "If you could *see* the classroom, you would wonder how it's achieved," she says of the staggering math scores.

Elementary school teachers there put great emphasis upon emotional engagement. Before fifth graders embark upon cubing, for example, they write in their math notebooks how they feel about this daunting exercise. (By contrast, American

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schools tend to separate thinking and emotions, White observes, and deal with the latter primarily when they are abnormal.)

Americans have been seeking solace in the thought that while Japanese students are prodigious achievers, Americans are more "creative." There is some truth to this charge. But White argues that Americans confuse self-expression with creativity, forgetting that the ability to solve problems cooperatively, which is creativity in a group mode, can be as important as the individual breakthroughs of an Einstein or Ford. In any event, Japanese probably put more emphasis on the arts than we do. All children learn two musical instruments, and take drawing and painting as well.

The group ethic is pervasive, and the process starts in the home. Where American mothers see a child as a dependency to be broken ("You can do that by yourself, Sammy. You're a big boy now"), the Japanese mother sees a gap to be bridged. Dependency is nurtured, and continues when the child goes off to school. White says she was expected to sit alongside the other mothers in the waiting room while her daughter attended a gymnastics class, even though the school was only a block away from their home.

The most popular home study desk in Japan—one product not crowding the container ports in Oakland—has a built-in buzzer to summon Mama for snacks.

Though it is paradoxical to the Western mind, such dependency is seen as the engine of effort and achievement because it is reciprocal. The Japanese word is *amae*, the desire to be loved passionately and unconditionally. As Sadaharu Oh, the Japanese Babe Ruth, put it, *amae* "warms the heart but also enables you to work twice as hard."

Japanese discipline seems equally paradoxical. Rarely is it overt. Japanese parents and later, teachers, use gentle cajoling and subtle signals of displeasure, until a child sees the advantage of complying with the prevailing norm (a form of discipline, it might be noted, that would work neither with old-fashioned knuckle-rapping nor with notes on the refrigerator door).

In school, children are taught to work hard to bring honor to the class. There is no tracking. At the annual sports day, called *undokai* at the elementary level, team sports such as relay races and tug-of-wars are stressed. "[T]here are no champions or most valuable players, except as informally noted by classmates. If there is a winner, a team is cheered, not a person." White cites a study showing that Japanese students value extracurricular activities because they strengthen friendships; Americans, because they help in getting into college.

The Japanese sense of community extends to parental support of the schools. Involvement with the PTA is "amazingly high," White says. Adults rank education at or near the top of their political concerns. Where American parents threaten to sue teachers, their Japanese counterparts importune them to be more demanding.

There is a direct connection, White suggests, between the group spirit of the Japanese classroom and the loyalty to their companies of Japanese workers and executives. "The reason why Japanese industry works and why Japanese schools teach, why workers don't quit, and why children don't drop out of school, is that what is most wanted out of life—stability, security, and support—is acquired through effort and commitment."

It is hard to fathom how this kind of cultural integrity can be conjured up with courses on "ethics" and "morals" of the kind Bennett and others keep proposing. When American kids look at the world of work, they don't see qualities like loyalty and commitment. They see job-hopping executives (and baseball players and owners) and T. Boone Pickens. And nobody has to tell them which model really counts.

White is mindful that the group ethic of Japanese schools has an ugly side, suggested in the Japanese education minister's well-publicized slur on the intelligence of American blacks, not to mention the nation's treatment of its own minority group, the Koreans. The clannish intolerance even extends to Japanese children who have lived abroad for a few years. Those who return with funny accents and backpacks and American-style assertiveness are called *gaijin* (foreigners).

White is aware as well that the Japanese schools are not without problems, especially at the secondary level. The "examination hell" can be a genuine nightmare (though some Japanese say parental pressure is the main problem), and the no-tracking policy leaves little room for the eccentric math genius who has no interest in languages whatsoever. "Here, the *average* level is a bit lower," a Japanese teacher at the Harvard School of Education, told me, speaking of American schools. "But you have a much larger number of creative and imaginative students." A young Japanese student living in the Boston area who has attended schools in both countries says the ones in Japan turn out "very smart robots."

But White maintains that there *are* important lessons from the Japanese experience. They are

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not techniques we can mimic like just-in-time inventory control. They involve instead basic American assumptions regarding motivation and success.

In the last century, the Japanese adopted the saying, "Western technique, Eastern values," to govern (and justify) their borrowing from the West. *The Japanese Educational Challenge* suggests that America now needs to reverse that process. Instead of trying to borrow back from the Japanese techniques they originally borrowed from us, we could learn something from the values that cause these techniques to work for them so well.

The Japanese put great stress on what White calls the "moral force of method," on doing a thing right for its own sake, whether lining up shoes by the door or cutting paper "just so." Students are encouraged to be persistent, not to get the highest score. The assumption is that something done the right way will end in success. "Product," she says, "is byproduct." If we grasp at Japanese techniques to get our balance of payments back in order, we'll get all sail and no wind.

This may be the biggest paradox of all. "For Americans bred on Adam Smith and Thomas Jefferson, culture is what's left over after the market economy and attendant social mobility have worked their will," White writes. "If we want to borrow anything from the Japanese, it is. . . the attention they devote to their *own* paramount cultural priority: the improvement of childrens' lives." ■

THE BURGER COURT: BAD, BUT NOT THAT BAD

by Dan Farber

When Warren Burger became chief justice, Richard Nixon was president and the United States was bogged down in the Vietnam war. Earl Warren, the prior chief justice, was the darling of liberals and anathema to conservatives. Burger was an imposing white-maned fellow who seemed more qualified by appearance than intellect for the job.

By the time Burger left the Court, Vietnam was almost forgotten and the Reagan presidency had begun to make liberals a little nostalgic for Nixon. Meanwhile, the Supreme Court had written many thousands of pages on everything from abortion to securities fraud. What did they add up to? What did the Burger Court contribute to the law?

This book*, a collection of 15 essays, is one of the first attempts to assess the Burger Court. The essays grew out of a symposium in *The Nation*. Not surprisingly, the authors share a stalwart commitment to liberalism and take a dim view of the Burger Court. In style, they range from the journalistic to the dryly academic. They deal with a variety of subjects, from libel to antitrust. Three essays in particular illustrate the book's major strengths and weaknesses.

The subject in the essay by former ACLU director and current New York University law professor, Burt Neuborne, is access to the federal courts. The Warren Court loosened many of the traditional doctrines limiting civil rights suits in federal court. It is no news, as Neuborne suggests, that the Burger Court was markedly less enthusiastic about opening the courthouse doors, or that the Burger Court's holdings on this subject were more than a little muddled and inconsistent. Neuborne's criticisms of individual cases are often cogent. It is his larger thesis that is troublesome.

According to Neuborne, the roots of the Burger Court's confusion lie in the famous case of *Marbury v. Madison*, in which Chief Justice John Marshall declared the Court's power to overturn congressional enactments. Marshall based the Court's power on the need, in deciding individual cases, to apply all available legal rules, including the Constitution. Thus, for Marshall, the power to rule on constitutional issues derived from a court's general duty to construe the law in the course of deciding individual cases. Neuborne argues, however, that cases are simply convenient vehicles for carrying out the Court's real function—which is to resolve disputes whenever

Dan Farber teaches constitutional law at the University of Minnesota and is co-editor of Constitutional Commentary.

**The Burger Years: Rights and Wrongs in the Supreme Court, 1969-1986.* Herbert Schwartz, ed. *Viking, $22.95.*

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a significant disagreement about the meaning of the Constitution affects people's lives.

If federal judicial review lacked any harmful side effects, no one could sensibly oppose Neuborne's program of making it as widely available as possible. But judicial review has its costs. Whenever the Supreme Court upholds a constitutional claim, it is withdrawing that issue from the state courts and legislatures, as well as Congress and the president. Also, given the role that precedent plays in the judicial system, judicial intervention tends to reduce future flexibility. Just because judicial review is a Good Thing, *more* judicial review is not always better.

Reasonable people can differ about how important these costs are and how much they should affect access to the federal court. I think the Burger Court tended to overestimate these costs and unduly restricted access. If the Court went wrong, however, it is not just because, as Professor Neuborne would have it, they were misled by their reading of *Marbury v. Madison*. Like many a lawyer's brief, Professor Neuborne's argument is highly persuasive—until you read the opposing brief, or in this case the Burger Court's opinions, and realize that none of the opponent's best arguments has even been addressed.

If Neuborne's essay slights the Burger Court's positions, Morton Halperin's criticisms of its opinions on national security issues are well-founded. Not only was the Burger Court very deferential to presidential invocations of national security, many of the Court's opinions, Halperin points out, are disturbingly shoddy. In *Haig v. Agee* the Court upheld the government's power to cancel the passport of a renegade CIA agent who had been writing books containing damaging disclosures about the agency. Halperin convincingly suggests that the Court ignored its own precedents limiting presidential power to withhold passports, as well as a congressional statute reinforcing the right to travel.

In fact, the *Haig* opinion (written by Burger himself) is even worse than Halperin indicates. The Court said that 1978 legislation provided "weighty evidence" that Congress approved of the president's power to withdraw passports to protect national security. Yet the legislative history unequivocally demonstrates that Congress intended to *broaden* freedom of travel. For example, although the statute says that a passport is required for foreign travel, it provides no penalty for traveling without a passport. The reason? The sponsor said the provision was intended simply to remind people that because many foreign countries require passports, they might be inconvenienced if they fail to bring them along. This provision was cited by the Supreme Court as evidence that Congress approved of restrictions on foreign travel. As a piece of legal writing, the Court's opinion is dishonest, if not incompetent.

Although Halperin is on solid ground in criticizing the Court's role in national security cases, he is wrong to place special blame on the Burger Court. He contends that until recently the Court generally did not defer to national security claims when constitutional rights were involved. This is, unfortunately, false. In World War I, World War II, and Vietnam, the Court was quite willing to brush aside constitutional claims in order to further the war effort. It was Earl Warren, after all, who wrote the opinion upholding a five-year sentence for draft card burning, even though the legislative history showed unmistakably that the statute was an attempt to punish political protestors. On the whole, the Warren Court's record *was* a little better than its predecessors, particularly with regard to bogus national security claims at the end of the McCarthy period. Nevertheless, the sad truth is that the Burger Court's record on national security is no worse than the historical average.

These two essays illustrate two flaws that are common in many of the other pieces: dismissing Burger Court positions without attending to the Court's arguments and exaggerating the virtues of the Warren Court to make the Burger Court look worse. Although the Warren Court made impressive contributions to constitutional law, its flaws cannot be ignored. The level of legal craftmanship on the Warren Court was unimpressive and sometimes embarrassing. Although Burger is no genius, there is little evidence that Warren was any more intelligent. And the Warren Court itself was hardly consistent in its liberalism. Warren's devotion to civil liberties vanished when dealing with sexually explicit material he considered unsuitable for his daughters' reading. The Warren Court's achievements were admirable enough that we should not feel the need to conceal its flaws.

Indeed, some of those flaws paved the way for the Burger Court. The Warren decisions that later were most undermined tended to be those that the Warren Court had done the poorest job of justifying. For example, when the government gives money to religious groups, the Warren Court held that taxpayers have standing to seek an injunction. The Burger Court held that taxpayers do not have standing when the government gives away property rather than cash. This is an

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odd distinction, as Neuborne points out. Yet the Warren Court opinion itself distinguished grants of cash from other government actions, thus practically inviting the later decision.

Still another problem in many of these criticisms of the Burger Court can be seen in Norman Rosenberg's essay on mental disability cases. Rosenberg assumes that institutionalization is an indefensible decision, that psychiatrists are biased in favor of institutionalizing, and that courts need to intervene to keep people out of institutions. Perhaps he is right. Yet the case against mental institutions seems less obvious than it once did, as yesterday's inmates have become today's homeless. And it is far from clear that the elderly lawyers who become judges are better qualified than psychiatrists to make decisions about the mentally disabled. By simply assuming the validity of his own policy judgments, Rosenberg avoids the difficult issues that perplexed the Court.

One of the basic problems the Supreme Court must consider is which questions to decide and which to leave to elected officials. To the extent that a given policy seems obviously correct, the argument for a judicial resolution gains strength. Like Rosenberg, many of the authors *assume* that standard planks in the traditional liberal platform are good social policy. Given this, the only question is whether the Court should allow key issues to be bungled by a wrong-headed elected body—and once you phrase the question this way, the answer is never very hard. Today, some of these liberal planks may remain attractive, but it is harder to take them as articles of faith. Plenty of liberals have serious doubts about affirmative action, the impact of labor unions on the economy, the desirability of legalizing pornography, and so on. These causes should not necessarily be abandoned, but their merits should be argued rather than simply postulated.

No doubt the authors felt it less necessary to discuss these issues because their original audience (the readers of *The Nation*) shared their views. The space constraints of magazine writing also sometimes discourage balanced reflection. When it came time to put articles into book form, however, some expanded discussion of the issues should have been in order. Unfortunately, as some of these essays illustrate, some liberals still have an unhappy tendency to assume that it is sufficient to proclaim liberal views without having to reflect on them. ■

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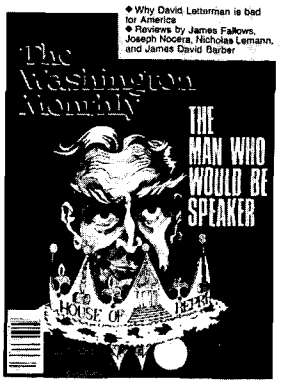

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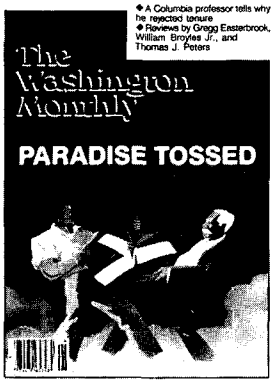

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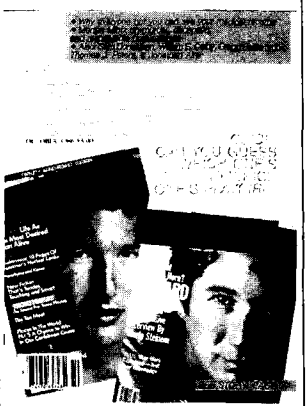

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Fast Forward: Hollywood, the Japanese, and the Onslaught of the VCR. James Lardner. *Norton, $18.95.* On a November afternoon in 1976, Harvey Schein, president of the American affiliate of Sony, met with Sidney Scheinberg, president of Universal Pictures, to discuss a conflict between their corporations. Sony had recently launched an ambitious advertising campaign for the Betamax, its new videocassette recorder, and Scheinberg was outraged that consumers would be able to reproduce Universal movies and television shows without paying Universal. At lunch, Schein proposed a reasonable, Japanese-style compromise: why not form a committee to get Congress to charge a royalty fee on the Betamax and on every blank videocassette? Scheinberg turned down the offer—perhaps because Universal's parent company, MCA, had invested in the videodisc, a Betamax competitor—and launched one of the most tedious legal and legislative battles of the eighties.

The Betamax war is an excellent case study of the absurdity of special-interest politics. Each side could assert plausible-sounding rights: Hollywood spoke for "intellectual property" while Sony championed consumer freedom. At the same time, each side was rich. Because lawyers and lobbyists risked little prestige—and stood to gain considerable wealth—arguing either side of the issue before the courts and Congress, the conflict attracted an all-star cast of advocates, including Lloyd Cutler, Robert Strauss, Stu Eizenstadt, and Laurence Tribe; by Lardner's reckoning, the tally included four former top advisers in the Carter White House, two former senators, five former representatives, two former White House economists, two former FCC chairmen, and two former chief counsels to the Senate Judiciary Committee. "No issue facing the nation in recent memory had engaged the attention of a more formidable array of elder statesmanhood."

The problem, of course, was that the real-world stakes were trivial. Neither side could demonstrate that its own well-being—let alone that of other Americans—was seriously at risk. As a result, the money and attention lavished on the issue by the warring parties, by the federal government, and, eventually, by the press, was a huge waste.

If the conflict had any redeeming side, it was its capacity to produce good theater. "It's corporate pigs versus corporate pigs," one congressional aide told Lardner. "So you sort of watch it like a pig fight. All these people running around with $500 suits and $3 cigars." Grandson of the great American humorist Ring Lardner, James writes in the foreword to his book that it was the "low-comedy" side of the story that initially drew him in. But over the long haul Lardner began to take the issues more seriously.

Unfortunately, the intricacies of copyright law hold a greater fascination for writers than for most people. A Sony lawyer complained to Lardner that when he argued his case before the Supreme Court, Justice Sandra Day O'Connor asked a question that showed she hadn't been paying attention. She gets my sympathy. An intellectual-property peddler myself, even I found my eyes glazing over while reading through the more "serious" parts of Lardner's book. (This project was supervised by the endlessly patient editors of *The New Yorker*.)

To the extent that Lardner avoids the copyright swamp and offers insights into how business and government work, his account is lively and readable. It's useful to learn that MITI, much-worshipped by American advocates of industrial policy, proved completely ineffectual in persuading Japanese VCR manufacturers to adopt a uniform format. A major reason was Sony's American-style determination to stick to its own design rather than admit that it could learn

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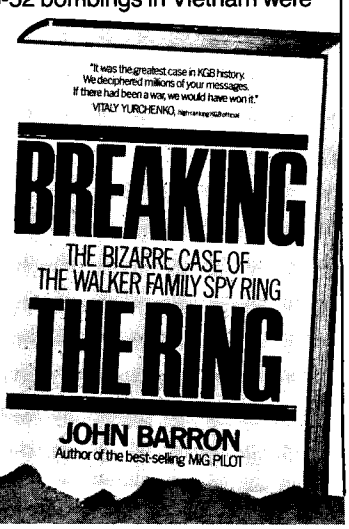

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from someone else—a decision it must regret now that the rival VHS format has become the industry standard. Lardner also shows how Hollywood's "high concept" approach to moviemaking—reduce narrative and theme to a snappy sentence—was adopted by Jack Valenti, head of the Motion Picture Association of America, as a lobbying strategy. "Japanese machines do not create entertainment," Valenti said. "The American motion picture industry does."

It didn't work. Congress gradually came to the conclusion that it was better off doing nothing than offending either side, and the Supreme Court eventually decided in Sony's favor. By then the movie companies were themselves making a fortune off the sale of prerecorded videocassettes. So what was all the fuss about?

—Timothy Noah

Work, Health, and Income Among the Elderly. Gary Burtless, ed. *Brookings, $26.95.* Social security is one of the few social programs that survived the ravages of the Reagan years. But amidst millions of comfortable retirees, there is a stubbornly high number of senior citizens still living in poverty. A recent Villers Foundation study shows 12.6 percent of senior citizens—about 3.5 million people—live below the poverty line. That's less than the rate for other segments of society, notably children, but it is still disturbing.

How do elderly people fall through the cracks of what is supposed to be a "universal" program? The essayists in Burtless's book demonstrate that several sub-groups of elderly Americans are likely to go unprotected by the lattice of programs that form social security, Medicare, and private pensions.

For instance, Jerry A. Hausman and Lynn Paquete of MIT point to blue-collar and agricultural workers—as usual, disproportionately black—whose poor health forces them to retire early, often in their 50s, occasionally in their 40s. Unable to haul themselves through mine shafts or break topsoil, they are not eligible for federal retirement benefits either. Social security only picks up the tab when they turn 62. The only federal monies they can claim are pitifully small disability benefits and Supplemental Security Income, the welfare component of Social Security. State unemployment and welfare programs are available, but notoriously meager. And unless they're in a union, they're not likely to have much of a pension. Until they turn 62, these laborers are forced to deplete their small savings, and as the authors note ominously, cut their food consumption by over 30 percent.

Their plight is likely to darken. The 1983 compromise that taxed social security and preserved across-the-board cost of living increases for even the wealthiest recipients, also raised the retirement age to 67 for those quitting work after the year 2000. A higher retirement age makes sense for most people, who are more fit at 65 than previous generations. But for the disabled worker, the years of vulnerability will grow longer. Unless something is done now, even more of the hardest working Americans will find themselves finishing their careers with nothing. To their credit, the authors propose a solution that deserves real consideration: a supplemental means-tested benefit for those who are forced to retire early.

Elderly widows are another group at risk, even though the Social Security Act of 1935 was designed with them in mind. Today's system works against them. While 8 percent of married elderly women live below the poverty line, 31 percent of elderly widows do. The problem is scrimpy benefits. Widows receive about half the amount couples receive, but they cannot cut all their expenditures in half. They still have to maintain an apartment and pay for utilities on a single income.

The big problem with this book—and with much of what emanates from Brookings—is that it's tediously written and laden with mathematical equations. ("Where b( ) is the bivariate density function.") That's unfortunate because

Political demons, political culture

Ronald Reagan, The Movie looks at the relationships between movies and politics, from the origin of motion pictures in the racial fantasies of *The Birth of a Nation* to the origins of Ronald Reagan in motion pictures. Rogin traces the sources of Reagan's confusion between politics and the movies to the roles the actor played on screen.
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this book deserves an audience it probably won't get.

—*Matthew Cooper*

Mission to Tehran. Bruce Huyser. *Harper & Row, $20.95.* Air Force General Robert "Butch" Huyser, is the man Carter dispatched to Tehran in 1979 as part of his effort to forestall the demise of the shah. *Mission to Tehran* is Huyser's dramatic recounting of how that undertaking was doomed to failure, not least by an administration in Washington divided on policy and preoccupied with other foreign policy issues.

The general's mandate, which was provided in writing only with reluctance, seemed clear enough at the outset: to encourage Iran's military leadership to work together in support of the last civilian government under the shah, that of Shahpur Bakhtiar. "The Iranian military is the key to the situation," his instructions read. "We are prepared to stick with them." His instructions, however, were ambiguous on a key point: what the military leadership and the U.S. were to do if the Bakhtiar regime proved unwilling or unable to act in time to prevent a takeover by the Ayatollah Khomeini. Bakhtiar did fail, Khomeini took power, and the military coup that might have prevented the outcome did not occur and appears to have been little considered by Iran's military leaders.

Huyser seems convinced that while a military coup should have been attempted as a last resort and could have succeeded, it would not have been necessary had Washington given him more unified support.

Ambassador William O. Sullivan, with whom Huyser reports he had a good personal relationship, was apparently operating under different guidelines. As Huyser tells it, Sullivan thought the military would collapse under pressure, "had no faith in Bakhtiar, actually thought a Khomeini Islamic Republic would be preferable to a military takeover," and was encouraged in these views by the State Department, which Huyser sensed was marching in-

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dependent of the White House.

Huyser's description of the military leadership would seem to support Sullivan's expectations of them. Much of his book is spent on his frustrating daily efforts to get the generals to embark on the planning he felt was essential to back Bakhtiar and to thwart the opposition's efforts to destabilize the economy and radicalize the streets. The shah had deliberately never allowed or encouraged them to work together as a team—no surprise, given the shah's lack of trust in those around him. Most of the generals, fearing for their own lives, nervously talked of leaving the country when the shah left. Pressing them for action, Huyser says he "felt like he was scolding children." In addition, there was an endemic scapegoat syndrome and an assumption that the United States was supposedly capable of "waving the magic wand and all Iran's troubles would vanish."

In Washington Huyser found the administration at a loss as to what to do next. Summoned to meet the president a week before the end, Huyser was asked, "What do you think I should do about Ambassador Sullivan?" And on the day the Bakhtiar regime collapsed and the chief of the army was assassinated, Huyser, back at his command in Europe, was asked by Deputy Secretary of Defense Charles Duncan if he was willing to go back to Tehran and conduct a military takeover.

But Khomeini had already won. Bakhtiar went into hiding and eventually fled the country. With one exception, Iran's military leaders were imprisoned, executed, or fled. Looking back on that tortured period, one of its lessons must be to remind us of the limits of the capacity of any outside power, however influential or strong, to determine the direction that another country and its leadership take, especially a country with politics and culture that are as difficult for outsiders to comprehend as that of Iran. And that, of course, is something McFarlane et al. have just rediscovered.

—*Bruce Laingen*

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Making Public Policy: A Hopeful View of American Government. Steven Kelman. *Basic Books, $16.95.* Steven Kelman, is a professor of public policy at the Kennedy School of Government at Harvard. He is probably best known for his artful evisceration in *The Public Interest* of the hyped "findings" of massive waste reported by the Grace Commission. He has now written a full-blown text on the public policy process that takes on with special vigor the "public choice" theorists who have articulated a cynical and negative view. Ever since James Buchanan won the Nobel Prize for economics, public choice has enjoyed a special and largely uncritical cachet. Kelman mercilessly and effectively punctures that balloon. While he is perhaps a little too harsh on David Mayhew and Morris Fiorina, two political scientists whose work is more subtle and sophisticated than he allows, Kelman's critique is basically on point.

The book is really aimed at the college market. It is a very good addition to the range of texts on the public policy process, for students and also for faculty who work in the areas of process, politics, and/or implementation. While Kelman's writing is clear, and his examples appropriate, his sophisticated analysis makes his book somewhat less accessible to a lay audience. There is a lot of detail that will be of less interest to the non-professional political scientist or student, and some disputes and theses that will not resound for those who are not immersed in the sometimes arcane controversies. Even so, any reader of *Making Public Policy* will come away more knowledgeable, and more hopeful, about the American policy process.

—*Norman Ornstein*

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